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ABSTRACT

This manual is a set of guidelines to assist Idaho school districts in carrying out the provisions of the Individuals with Disabilities Education Act (IDEA) Amendments of 1997, and its implementing regulations which became final on March 12, 1999. The manual also incorporates changes in Administrative Rules of the Idaho State Board of Education, which became effective August 4, 1999. Specific chapters address: (1) major elements of IDEA; (2) identification of students with disabilities and referral to special education; (3) student evaluation and eligibility, consent for assessments, and reevaluation; (4) Individualized Education Programs (IEPs), the IEP team, and IEP procedural requirements; (5) least restrictive environment requirements; (6) discontinuation of services, graduation, and grading; (7) procedural safeguards and confidentiality, access to records, surrogate parents, independent education evaluations, mediation, and due process; (8) private home and charter school students; (9) improving results, performance goals and indicators, suspension and expulsion rates, and disproportionality; and (10) documentation requirements. Extensive appendices include information on related federal laws, suggested modifications and instructional interventions, rating scales, best practices for IEP development and implementation, nondiscriminatory grading policies, procedures for resolving complaints, dual enrollment, and transition services. (CR)

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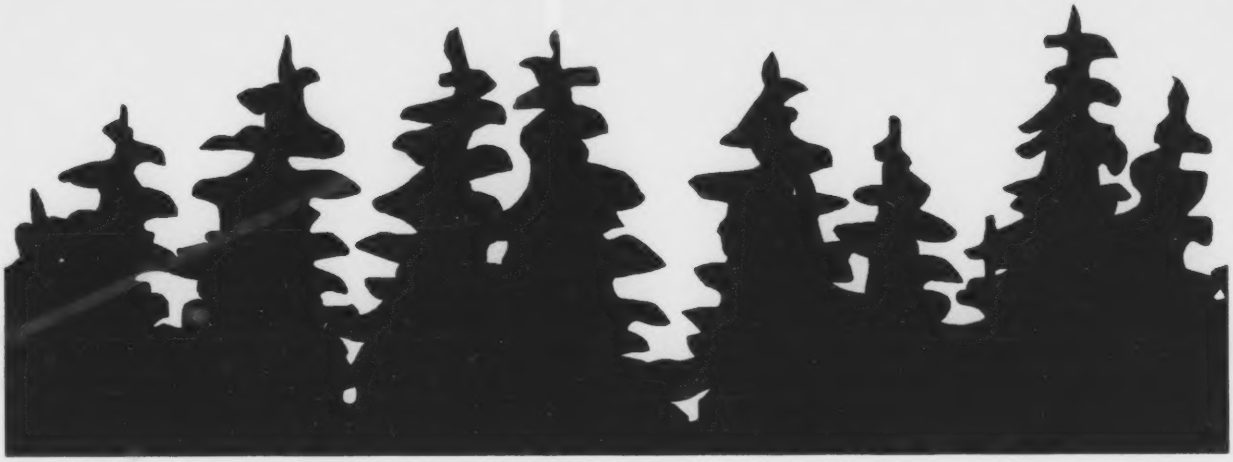

IDAHO
SPECIAL EDUCATION
MANUAL

September 1999

Bureau of Special Education
Idaho State Department of Education

Dr. Marilyn Howard
Superintendent of Public Instruction

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A complete list of task force members can be found on page x.

Special Education Manual Task Force

Larry Streeter, Chairman
Dispute Resolution Specialist
State Department of Education

Liz Bermensolo
Southwest Regional Consultant
Boise State University

Rosanne Celaya
Director of Special Education
Gooding Joint District #231

JoAnn Curtis
Director of Special Education
Post Falls District #273

Bill Feusahrens
Superintendent
Filer District #413

Suzie Hanks
Parent Volunteer
Idaho Parents Unlimited, Inc.

Gina Hemenway
Director/Teacher of Special Education
Payette District #371

Carl Jacobia
Director of Special Education
Madison District #321

Jana Jones
Southeast Regional Consultant
Idaho State University

Deborah Lund
Director of Special Education
Jefferson County Joint District #251

Malina Piatt
Special Education Teacher
Coeur d'Alene District #271

Judy Randleman
Director of Special Education
Weiser District #431

Laura Vance
Administrative Assistant
State Department of Education

Nolene Weaver
Bureau Chief, Special Education
State Department of Education

Shelley Weigt
President
Idaho Parents of Blind Children

Jane Zornik
Special Education Monitoring Specialist
State Department of Education

INTRODUCTION

The *Idaho Special Education Manual* updates and replaces a 1997 document titled *The Idaho Interim Special Education Manual*. This new manual is a set of guidelines to assist districts in carrying out the provisions of the Individuals with Disabilities Education Act (IDEA) Amendments of 1997, and its implementing regulations which became final on March 12, 1999. The manual also incorporates changes in Administrative Rules of the State Board of Education, which became effective August 4, 1999.

In order to receive federal funds available under the IDEA, districts must adopt and implement appropriate special education policies and procedures. They must be approved by the State Department of Education (SDE) consistent with state and federal laws, rules, regulations, and legal requirements. This manual is a sample set of approved policies and procedures that boards of trustees may adopt. Appendices clarify and supplement the body of the manual but should not be adopted as, or considered to be, policy.

GLOSSARY

Academic achievement. A student's level of performance in basic school subjects, measured either formally or informally.

Accommodation. Any modification designed to make education more accessible or allow the student to participate more fully in his or her educational program; for example, Braille, large print, pencil grips, extra time.

Adaptation. Any modification designed to lead to educational outcomes that represent only part of the general classroom curriculum; such as, fewer concepts mastered and different outcomes planned.

Adaptive behavior. Behavior that displays an age-appropriate level of self-sufficiency and social responsibility which includes the following areas: communication, self care, home living, social/interpersonal skills, use of community resources, self direction, functional academic skills, work, leisure, health or safety.

Adult student. A student with a disability, ages 18 or older, to whom rights have transferred under the IDEA and Idaho Code.

Age appropriate activities. Activities that typically developing children of the same age would be performing or would have achieved.

Age of majority. The age at which, by law, a child assumes the responsibilities of an adult. In Idaho, the age of majority is 18.

Aggregated data. Information that is considered as a whole. In this manual, the term refers to collective data on all students, including students with disabilities.

Alternate assessment. A specific assessment, developed by the state in lieu of statewide assessments or by the district in lieu of district-wide assessments, designed to measure functional skills within the same domains required by the regular statewide or districtwide assessments. It is designed for students who are unable to demonstrate progress in the typical manner and who meet the state-established criteria.

Alternative or supplementary curriculum. Curriculum not based on or drawn directly from the general education curriculum.

Alternative school. A public school placement option that may be utilized for students who are not succeeding in the traditional school environment but may benefit through the use of modified curriculum or flexible programming.

Articulation. The ability to speak distinctly and connectedly.

Articulation disorder. Incorrect productions of speech sounds, including omissions, distortions, substitutions and/or additions that may interfere with intelligibility.

Assessment. The formal or informal process of systematically observing, gathering and recording credible information to help answer evaluation questions and make decisions. It is an integral component of the evaluation process. A test is one method of obtaining credible information within the assessment process.

Assistive technology device. Any item, piece of equipment or product system acquired commercially, modified or customized, that is used to increase, maintain or improve the functional capabilities of a student with a disability.

Assistive technology service. Any service that directly assists a student with a disability with the assessment, selection, acquisition, or use of an assistive technology device.

Attention deficit disorder (ADD). A biologically based mental disorder which has these typical characteristics: short attention span; distractive behavior; difficulty following directions and staying on task; and an inability to focus behavior. The disorder compromises many skills needed for academic success, including starting, following through with and completing tasks, moving from task to task and following directions.

Attention deficit hyperactivity disorder (ADHD). A biologically based mental disorder in which a person has inappropriate degrees of inattention, impulsiveness and hyperactivity.

Audiologist. A licensed health care professional who diagnoses hearing loss and selects and fits hearing aids.

Autism. An IDEA disability category in which a developmental disability, generally evident before age 3, significantly affects verbal and nonverbal communication and social interactions and adversely affects educational performance.

Behavioral intervention plan. A plan comprised of practical and specific strategies designed to increase or reduce a definable behavior. These strategies address preventative techniques, teaching replacement behaviors, how to respond or resolve behaviors, and crisis management, if necessary.

Benchmark. A major milestone which describes the progress the student is expected to make toward annual goals within a specified period of time. Similar to a short-term objective.

Braille. A tactile system of reading and writing, used by students who are blind and/or visually impaired, with an official code composed of Braille characters or cells that consist of various patterns of raised dots that correspond to alphabetic letters, punctuation marks and other symbols.

Business day. A work day (Monday through Friday) except for federal and state holidays, unless specifically included.

Case manager. A member of the evaluation and/or IEP team (usually the special education teacher) who is designated to perform administrative functions for the team, including: (1) setting up meetings; (2) ensuring appropriate forms are completed; (3) ensuring time lines are met; and (4) notifying participants of the times and dates of meetings.

Change of placement. A removal from the current educational placement for more than ten consecutive school days, or a series of removals that constitute a pattern when they total more than ten school days in a school year. Factors such as the length of the removal, the proximity of the removals to one another, and the total amount of time the child is removed are indicators of a pattern.

Charter school. A public school created by a formal agreement (charter) between a group of individuals and a local school district. A charter school is exempt from most state education regulations and local school district rules in exchange for agreeing to meet certain accountability requirements. Charter schools are not exempt from meeting the requirements of the IDEA, Section 504 or the ADA.

Child. An individual who has not attained age 18.

Child Find. A process to locate, identify and evaluate students who reside in the district and may be in need of special education.

Civil action. A judicial action that any party who is aggrieved by the final decision of a due process hearing officer may bring in either a federal district court or a state court of competent jurisdiction (as designated by the state).

Cognitive impairment. An IDEA disability category in which subaverage intellectual functioning exists concurrently with deficits in adaptive behavior. These deficits are manifested during the student's developmental period and adversely affect the student's educational performance. The term "mental retardation" was previously used to refer to this condition.

Comparable benefit. The IDEA requirement that obligates districts to ensure that private school students with disabilities receive benefits that are comparable in quality, scope and opportunity for participation in special education services funded by IDEA to those students with disabilities enrolled in public schools.

Compensatory education. Educational services which are above and beyond those normally due a student under his or her state's education law. The principle is acknowledged by most courts that have considered the issue to be an appropriate remedy when a student has been denied free appropriate public education.

Compensatory remedy. A judicial order or administrative action intended to redress a violation of the rights of a student with a disability who has suffered a loss as a result of the wrongful or negligent act of another and to restore the student to the position he or she would have been in if the wrongful or negligent act had not occurred. The remedy may include the award of monetary reimbursement or other corrective actions as appropriate to the needs of the student.

Complaint. A formal written statement submitted to the Idaho State Department of Education by an individual or organization that contains one or more allegations that a district or agency has violated a requirement of Part B of the IDEA.

Consent. Voluntary, written approval to a proposed activity, as indicated by a parent/adult student signature. The parent/adult student must be fully informed in his or her native language or other mode of communication, and understand all information relevant to the activity to make a rational decision.

Controlled substance. Any drug so designated by law whose availability is restricted; i.e., so designated by federal or state Controlled Substances Acts. Included in such classifications are narcotics, stimulants, depressants, hallucinogens and marijuana. Refer to Appendix 7I

Corrective Action Plan (CAP). A process which allows the district to address allegations in an IDEA complaint by proposing corrective actions to resolve the complaint, with final approval by the SDE.

Data based decision making. The collecting of information that can be charted or graphed to document performance over time followed by an analysis of the information to determine needed changes in policies, programs or procedures.

Day. Refers to a calendar day unless otherwise indicated as a business or school day.

Deaf-blindness. An IDEA disability category in which a student demonstrates hearing and visual impairments, and where the combination of these two disabilities causes such severe communication and other developmental and educational needs that the student cannot be accommodated with special education services designed solely for students with deafness or blindness.

Deafness. An IDEA disability category in which a hearing impairment is so severe that, the student, with or without amplification, is limited in processing linguistic information through hearing, which adversely affects educational performance.

Developmental delay. An IDEA disability category used only for students ages 3 through 9 for whom a significant delay exists in one or more of the following skill areas: receptive/expressive language; cognitive abilities; gross/fine motor functioning; social/emotional development; or self-help/adaptive functioning. The use of this category is optional for school districts.

Disaggregated data. Information that is reported and/or considered separately on the basis of a particular characteristic. In this manual, the term refers to data on special education students as a group that is reported and/or considered separately from the same data on all students in a school, district or state.

Discipline. A set of rules or techniques designed by a district for the purpose of minimizing disruption and promoting positive interaction. Techniques that may be used include: school-wide discipline plans, behavior intervention plans, social skills training, development of problem-solving and decision-making skills and positive and negative consequences.

Disclosure. The access to or the release, transfer or other communication of education records, or personally identifiable information contained in these records by oral, written, electronic or other means.

Discrepancy formula. The difference between a student's academic achievement and intellectual ability used to establish eligibility for special education under the category of learning disability.

Disproportionality. A disparity or inequality. In this manual, the term refers to a statistical range of data where students of a specific race or ethnicity are identified in either greater or fewer numbers than expected when compared to the representation of that race or ethnicity within the general school population. The areas addressed in IDEA are: (1)

identification as a student with a disability; (2) identifications a student with a specific category of disability; and (3) placement in a particular educational setting.

Due process hearing. An administrative hearing conducted by an SDE-appointed hearing officer to resolve disputes on any matter related to identification, evaluation, placement or the provision of a free appropriate public education.

Education record. A student's record maintained by an educational agency or institution, or by a party acting for the agency or institution, which may include, but is not limited to print, handwriting, computer media, video or audio tape, film, microfilm, and microfiche, but is not within the exceptions set out in FERPA.

Emotional disturbance. An IDEA disability category in which a student has a condition exhibiting one or more of five behavioral or emotional characteristics over a long period of time, and to a marked degree, that adversely affects educational performance. These five characteristics include: (1) an inability to learn that cannot be explained by intellectual, sensory or health factors; (2) an inability to build or maintain satisfactory interpersonal relationships with peers and teachers; (3) inappropriate types of feelings under normal circumstances; (4) a general pervasive mood of unhappiness or depression; or (5) a tendency to develop physical symptoms or fears associated with personal or school problems.

Evaluation. A broad term that encompasses the assessment process as well as what the evaluation team does with assessment and related information within the context of identification, placement and appropriate programming questions.

Evaluation team. A group of people, including the parent/adult student, charged with the responsibility to make decisions regarding evaluation, assessments and eligibility. This team includes the same membership as the IEP team (although not necessarily the same individuals) and other qualified professionals as appropriate. The evaluation team may conduct its business with or without a meeting. However, if requested by the parent/adult student, a team meeting will be held.

Expedited due process hearing. An administrative hearing conducted by an SDE-appointed hearing officer to resolve disputes concerning discipline for which shortened time lines are in effect in accordance with the IDEA.

Expulsion. Removal of a student from school for an extended period of time. For general education students, services usually cease during an expulsion.

Extended school year (ESY). A program, based on an IEP team decision, to provide special education and related services to an eligible student with a disability beyond the conventional number of instructional days in a school year and at no cost to the parents.

Extracurricular activities. Programs sponsored by a district that are not part of the required curriculum but are offered to further the interests and abilities of students.

FAPE (see Free Appropriate Public Education).

FERPA (see Family Educational Rights & Privacy Act).

Family Educational Rights & Privacy Act (FERPA). A federal law protecting the privacy of students and parents by mandating that personally identifiable information about a student contained in education records must be kept confidential in the absence of written parental consent to release or exchange information. FERPA also contains provisions for access to records by parents and students.

Fluency disorder. Stoppages in the flow of speech that are abnormally frequent and/or abnormally long. These interludes take the form of repetitions of sounds, syllables or single syllable words; prolongations of sounds; or blockages of airflow and/or voicing in speech.

Free Appropriate Public Education (FAPE). A basic IDEA requirement which states that special education and related services are provided at public expense (free); in conformity with an appropriately developed IEP (appropriate); under public supervision and direction (public); and include preschool, elementary and secondary education that meets the education standards, regulations and administrative policies and procedures issued by the State Department of Education (education).

Functional behavior assessment. A systematic process for defining problem behavior and gathering medical, environmental, social and instructional information that can be used to hypothesize about the function of student behavior.

General education curriculum. The curriculum that is designed for students without disabilities, usually consisting of a common core of subjects and curriculum areas adopted by a school district.

Goal. A measurable statement that includes behavior, evaluation procedures and performance criteria and describes what the student is reasonably expected to accomplish from the specialized education program within the time covered by the IEP (generally one year).

Graduation. The point in time when a student meets the district requirements for receipt of a regular high school diploma.

Guardianship. A legal arrangement under which a competent adult has the legal right and duty to deal with problems, make decisions and give consent for an adult with a disability (at least 18 years of age) who cannot act on his or her own behalf. The court will specify the nature and scope of the guardian's authority.

Gun-Free Schools Act. Federal legislation enacted in 1994 requiring school districts and similar public agencies to adopt a policy generally requiring the expulsion from school for a period of not less than one year of any student determined to have brought a weapon to school, although permitting exceptions to be made on a case-by-case basis for students with disabilities.

Health impairment. An IDEA disability category in which a student exhibits limited strength, vitality or alertness, including heightened alertness to environmental stimuli that is due to chronic or acute health problems (such as asthma, ADD or ADHD, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, and sickle cell anemia) to such a degree that it adversely affects the student's educational performance.

Hearing impairment. An IDEA disability category in which a student has a permanent or fluctuating hearing loss that adversely affects the student's educational performance but is not included under the category of deafness.

Individualized Education Program (IEP). A written document (developed collaboratively by parents and school personnel) which outlines the special education program for a student with a disability. This document is developed, reviewed and revised at an IEP meeting at least annually.

IEP team. A team established by the IDEA and comprised of the child's teacher, a special education teacher, a district representative, parents, the student when appropriate, and other knowledgeable persons. The team is responsible for developing an IEP, determining placement, and reviewing and revising the student's IEP and placement at least annually.

Illegal use of drugs. The unlawful use, possession or distribution of substances identified under the Controlled Substances Act, but does not include the use of a drug taken under supervision by a licensed health care professional.

Independent educational evaluation (IEE). One or more assessment(s) conducted by a qualified examiner(s) who is not employed by the public agency or district responsible for the education of the student in question.

In-school suspension. A disciplinary technique, considered a less restrictive alternative to sending a student home, that involves excluding the student from the regular classroom and assigning him or her to a temporary location where students work and receive a minimum amount of privileges. In-school suspensions are considered neither exclusions nor significant changes in placement, and generally do not trigger procedural safeguards under the IDEA unless they are used repeatedly for the same student.

Instructional intervention. An action or strategy based on an individual student's problem that is designed to remedy, improve, or eliminate the identified problem.

Interagency agreement. A written document which defines the coordination between the state and/or public/private agencies and/or districts with respect to the responsibilities of each party for providing and funding programs and services.

Interim alternative educational setting (IAES). The educational setting in which a district may place a student with a disability, for a maximum of up to 45 days, who possesses or carries a weapon or illicit drugs, uses illicit drugs or sells or solicits the sale of a controlled substance while at school or a school function. An IAES may also be ordered by a due process hearing officer based upon evidence that maintaining the current placement is substantially likely to result in injury to the student or others.

Interim IEP. A short term IEP with all the components of a standard IEP developed by the IEP team. It may be used for students transferring from other districts pending the development of the standard IEP.

Itinerant specialist. A teacher who normally travels and provides services to students in different schools or in the home or consults with teachers and administrators.

Joint custody. A court order awarding custody of a minor child to both parents and providing that physical and/or legal custody shall be shared by the parents.

Joint legal custody. A court order providing that the parents of a child are required to share the decision making rights, responsibilities and authority relating to the health, education and general welfare of the child.

Joint physical custody. A court order awarding each of the parents significant periods of time in which a child resides with or is under the care and supervision of each of the parents. The actual amount of time is determined by the court.

Language impairment. An IDEA disability category in which a delay or disorder exists in the development of comprehension and/or the uses of spoken or written language and/or other symbol systems and which adversely affects the student's educational performance. A language impairment may involve any one or a combination of the following: the form of language (morphological and syntactic systems); the content of language (semantic systems); and/or the function of language in communication (pragmatic systems).

Learning disability. An IDEA disability category in which a specific disorder of one or more of the basic psychological processes involved in understanding or in using spoken or written language may manifest itself in an impaired ability to listen, think, speak, read, write, spell or do mathematical calculations, adversely affecting the student's educational performance. The term includes such conditions as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia and developmental aphasia. The term does not include a student who has needs that are primarily the result of visual, hearing or motor disabilities; cognitive impairment; emotional disturbance; or environmental, cultural or economic disadvantage.

Least Restrictive Environment (LRE). The IDEA requirement that students with disabilities, including those in public or private institutions or other care facilities, are educated with children who are non-disabled to the maximum extent appropriate.

Limited-English proficient (LEP). Students from language backgrounds other than English who need language assistance services in their own language or in English in the schools and who meet one or more of the following conditions: (a) the student was born outside of the United States or his/her native language is not English; (b) the student comes from an environment where a language other than English is dominant; or (c) the student is American Indian or Alaskan Native and comes from an environment where a language other than English has had a significant impact on his/her level of English language proficiency. The student also has sufficient difficulty speaking, reading, writing or understanding the English language to deny him/her the opportunity to learn successfully in English-only classrooms.

Manifestation determination. A determination of whether or not the misconduct of a student with a disability was either a demonstration of the disability (inability to understand impact and consequences or inability to control behavior), or the result of an inappropriate placement or lack of provision of services consistent with the IEP and placement.

Mediation. A voluntary, informal process in which an impartial third party mediator helps parents and district or agency personnel to resolve a conflict. Mediation usually results in a written agreement that is mutually acceptable to both parties.

Modifications. Accommodations or adaptations to the general education curriculum to meet the individual needs of a student with a disability. This may also include an alternative or supplemental curriculum.

Monitoring. An activity conducted by the State Department of Education to review a school district's compliance with federal laws, regulations and state rules.

Multiple disabilities. An IDEA disability category in which two or more impairments co-exist (excluding deaf-blindness), whose combination causes such severe educational problems that the student cannot be accommodated in special education services designed solely for one of the impairments. Multiple disabilities are generally lifelong, significantly interfere with independent functioning and may necessitate environmental modifications to enable the student to participate in school and society.

Native language. The language or mode of communication normally used by an individual or, in the case of a child, the language normally used by the parents of the child. In direct contact with a child, the native language would be the language or mode of communication normally used by the child and not the parents, if there is a difference between the two.

Non-public school student. Any student who receives educational instruction outside a public school classroom, including but not limited to a private school or home school student.

Occupational therapist. A professional licensed through the Bureau of Occupational Licenses who is responsible for assessing fine motor skills, including student's use of hands and fingers and developing and implementing plans for improving related motor skills. The occupational therapist focuses on daily living skills such as eating, dressing, schoolwork and play/leisure.

Office of Special Education Programs (OSEP). The branch of the Office of Special Education and Rehabilitative Services (OSERS) within the U. S. Department of Education which is responsible for administering programs relating to the free appropriate public education to all eligible beneficiaries, including interpreting the requirements of the IDEA statute and regulations.

Orientation and mobility (O & M) services. Services provided by qualified personnel to blind and visually impaired students to enable these students to attain systematic orientation to and safe movement within the home, school and community, including teaching (a) spatial and environmental concepts and use of information received by the senses; (b) use of the long white cane as appropriate to supplement visual travel skills or as a tool for safely negotiating the environment for students with no available travel vision; and (c) understanding and use of remaining vision and distance aids; and (d) other concepts, techniques and tools.

Orthopedic impairment. An IDEA disability category that includes physical impairments that adversely affects a student's educational performance and are caused by congenital anomaly (for example, clubfoot or absence of an appendage); disease (for example, poliomyelitis, bone tuberculosis, etc.); or from other causes (for example, cerebral palsy, amputations, and fractures or burns that cause contracture).

Paraprofessional. A non-certified, non-licensed individual employed by a district who is appropriately trained and supervised in accordance with state standards to assist in the provision of special education and related services.

Parent. A natural or adoptive parent, a legal guardian, a surrogate parent or a person acting as a parent of a child who has been appointed in accordance with IDEA. The term "acting as a parent" includes a person such as a grandparent or stepparent with whom the child lives, as well as a person who is legally responsible for the welfare of the child. The term does not include the State if the child is a ward of the State.

Parent/adult student. The student's parent or the adult student if he or she is at least 18 years of age and his/her parent has not retained special education rights.

Part B. Part of IDEA that relates to the assistance to states for the education of students with disabilities who are ages 3 through 21. Part B is administered by the State Department of Education and carried out by school districts and other public agencies.

Part C. Part of IDEA that relates to the assistance to states for the education of children with disabilities and the early intervention programs for infants and toddlers, ages birth through 2, with disabilities. In Idaho, Part C is administered by the Department of Health and Welfare.

Personally identifiable information. Includes but not limited to, student's name, name of parent or other family member, address of student or family, social security number, student number, list of personal characteristics that would make the student's identity easily traceable, or other information that would make it possible to identify the student with reasonable certainty.

Phonology. The process used in our language which has common elements (sound patterns) which affect different sounds.

Phonology disorders. Phonology disorders are errors involving phonemes, sound patterns and the rules governing their combinations.

Physical therapist. A professional licensed through the Bureau of Occupational Licenses who, in the school setting, assesses students' needs and provides interventions related to gross motor skills. In working with students with disabilities, the physical therapist provides treatment to increase muscle strength, mobility, endurance, physical movement and range of motion; improve posture, gait and body awareness; and monitor function, fit and proper use of mobility aids and devices.

Plan for Improving Results (PIR). A plan developed collaboratively between the SDE and a school district to address needs identified as a result of the district's self-evaluation and/or a SDE monitoring visit.

Prereferral team. A team established at the local level, whose name may vary, with the purpose to problem solve regarding the educational needs of any student. Procedures, meeting schedules and team membership are established locally. The team is likely to be comprised of general educators and administrators and could include counselors, specialists and special education personnel. Parent participation is valuable, but is not required.

Present levels of performance. A statement of the student's current level of achievement or development in an area of need and how the student's disability affects his/her involvement and progress in the general education curriculum offered to students without disabilities.

Private school. A school that is not funded by or under federal or state control or supervision.

Procedural safeguards. The formal requirements of Part B of the IDEA that are designed to allow a parent/adult student to participate meaningfully in decisions concerning appropriate educational program for a student with a disability. Also referred to as special education rights.

Professional judgment. An opinion formed after due consideration by the team of professionals and parent that a student is eligible for special education even though the student did not meet all the specific eligibility criteria for a particular disability category.

Public expense. When a district or public agency either pays for the full cost of an evaluation or special education services or ensures that it is otherwise provided at no cost to the parent; for example, through joint agreements with other state agencies.

Reevaluation. A periodic evaluation conducted at least every three years, or more frequently if conditions warrant, or if the child's parent or teacher requests an evaluation of a student already identified as eligible for services under the IDEA.

Related services. Refers to transportation and such developmental, corrective and other supportive services required to assist a student with disabilities to benefit from special education and includes speech-language pathology and audiology services, psychological services, physical and occupational therapy, recreation, therapeutic recreation, early identification and assessment of disabilities in children, counseling services, rehabilitation counseling, orientation and mobility services, medical services for diagnostic or evaluation purposes, school health services and social work services in schools.

School age. Includes all persons 5 (i.e. turns 5 on or before September 1) through 21 years who reside in Idaho. For students with disabilities who qualify for special education and related services under the IDEA, school age begins at age 3 and continues through the semester of school in which the student attains the age of 21.

School day. Any day, including a partial day, that students are in attendance at school for instructional purposes.

School psychologist. A professional who holds an Idaho Pupil Personnel Services Certificate with an endorsement in Psychology and is charged with the responsibility to conduct assessments and determine a student's cognitive, academic, social, emotional, and/or behavioral functioning. This professional also provides direct services to students, consults with district staff and may be a member of the evaluation and/or IEP team.

Short term objectives. Measurable, intermediate steps which describe the progress the student is expected to make toward an annual goal in a specified amount of time; similar to a benchmark.

Social worker. A professional who holds an Idaho Pupil Personnel Services Certificate with an endorsement in Social Work and helps students and teachers address social and emotional issues. This professional may be a member of the evaluation and/or IEP team.

Special education. Specially designed instruction or speech-language therapy to meet the unique needs of a student with a disability including: instruction in the classroom, home, institution, hospital and other settings; instruction in physical education and speech therapy; transition services; travel training; assistive technology services; and vocational education.

Special Education Rights Statement. A document which explains the specific procedural safeguards afforded to a parent/adult student under the Individuals with Disabilities Education Act.

Specially designed instruction. Adapting the content, methodology or delivery of instruction to address the unique needs of an eligible student and to ensure access to the general education curriculum so that the student can meet the education standards of that district that apply to all students.

Speech impairment. An IDEA disability category which includes articulation/phonology, voice, or fluency disorders.

Speech-language pathologist. A professional who holds an Idaho Pupil Personnel Services Certificate and provides services to students with articulation/phonology, voice, or fluency disorders. This professional may be a member of the evaluation and IEP teams.

Stay put. A requirement that a district or agency maintain a student with a disability in his or her present educational placement while a due process hearing or subsequent judicial proceeding is pending unless the parties agree otherwise.

Substantial evidence. A legal term that means "beyond a preponderance of the evidence" or "beyond more likely than not".

Supplementary aids and services. Modifications that must be made to the general education classroom and/or curriculum to ensure the satisfactory participation of a student with a disability, including supports to the general education teacher.

Surrogate parent. An individual assigned by a district or agency to assume the rights and responsibilities of a parent under the IDEA when no parent can be identified or located for a particular student.

Suspension. A temporary stop, delay, interruption or cessation of educational services, generally having a maximum of no more than ten consecutive school days.

Transition Services. A coordinated set of activities for a student with a disability designed within an outcome oriented process, based on the individual student needs addressing instruction, related services, community experiences, employment, post-school adult living objectives and, when appropriate, acquisition of daily living skills and functional vocational evaluation.

Traumatic brain injury. An IDEA disability category that refers to an injury to the brain caused by an external physical force and resulting in a total or partial functional disability or psychosocial impairment, or both, that adversely affects educational performance. The term applies to open or closed head injuries resulting in impairments in one or more areas such as cognition, language, memory, attention, reasoning, abstract thinking, judgment, problem solving, sensory perception and motor abilities, psychosocial behavior, physical functions, information processing and speech. The term does not apply to congenital or degenerative brain injuries or to brain injuries induced by birth trauma.

Travel training. Instruction to students with significant cognitive disabilities and any other students with disabilities who require instruction to enable them to develop an awareness of the environment in which they live and learn the skills necessary to move effectively and safely from place to place within the home, school and community.

Unilateral placement. A decision by a parent, at his or her own discretion, to remove his or her child with a disability from a public school and enroll the student in a private facility because the parent believes that the district did not provide FAPE in a timely manner.

Visual impairment including blindness. An IDEA disability category characterized by an impairment in vision that, even with correction, adversely affects a student's educational performance. The term includes partial sight, which refers to the ability to use vision as one channel of learning if educational materials are adapted, and blindness, which refers to the prohibition of vision as a channel of learning, regardless of the adaptation of materials.

Voice disorder. An IDEA disability category that refers to the absence or abnormal production of voice quality, pitch, intensity or resonance. Voice disorders may be the result of a functional or an organic condition.

Voluntary enrollment in a private placement. Enrollment by a parent of a student with a disability in a private facility or home school for religious, philosophical, curricular, or other personal reasons.

Weapon. A dangerous device, instrument, material or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than 2½ inches in length.

Written notice. Written statement provided by the district to a parent/adult student within a reasonable amount of time proposing or refusing to initiate or change the identification, evaluation, placement or the provision of FAPE.

ACRONYMS AND ABBREVIATIONS

504	Section 504 of the Rehabilitation Act of 1973
ADA	Americans with Disabilities Act
A.D.A.	Average Daily Attendance
ADD	Attention Deficit Disorder
ADHD	Attention Deficit Hyperactivity Disorder
AU	Autism
BIP	Behavior Intervention Plan
CAP	Corrective Action Plan
C.F.R.	Code of Federal Regulations
CI	Cognitive Impairment
Co-Ad	Comprehensive Advocacy, Inc.
DB	Deaf Blind
DD	Developmental Delay
DHW	Department of Health and Welfare
ECR	Early Complaint Resolution
ECSE	Early Childhood Special Education
ED	Emotional Disturbance
EHLR	Education for the Handicapped Law Report
ENT	Ear, Nose, and Throat
ESY	Extended School Year
FAPE	Free Appropriate Public Education
FERPA	Family Educational Rights and Privacy Act
GEPA	General Education Provisions Act
GPA	Grade Point Average
GPRA	Government Performance Review Act
HI	Health Impaired
IAES	Interim Alternative Educational Setting
IDAPA	Idaho Administrative Procedures Act
IDEA	Individuals with Disabilities Education Act
IDELR	Individuals with Disabilities Education Law Report
IEE	Independent Educational Evaluation
IEP	Individualized Education Program
IFSP	Individualized Family Service Plan
IPUL	Idaho Parents Unlimited, Inc.
IQ	Intelligence Quotient
LEP	Limited English Proficiency
LI	Language Impaired
LD	Learning Disability

LOA	Letter of Authorization
LRE	Least Restrictive Environment
MD	Multiple Disabilities
O&M	Orientation and Mobility
OCR	Office for Civil Rights
OI	Orthopedic Impairment
OSEP	Office of Special Education Programs
PIR	Plan for Improving Results
SBE	State Board of Education
SDE	State Department of Education
SEAP	Special Education Advisory Panel
SI	Speech Impaired
SLP	Speech-Language Pathologist
SSN	Social Security Number
SP	Services Plan
TBI	Traumatic Brain Injury
VI	Visual Impairment

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Legal Citations

Abbreviations Used:

Code of Federal Regulations (C.F.R.)
Idaho Administrative Procedures Act (IDAPA)
Office of Attorney General (O.A.G.)

Section 1. Student Eligibility Under the IDEA

34 C.F.R. § 300.7
Idaho Code 33-2001(3)
IDAPA 08.02.03.109.03.
IDAPA 08.02.03.109.01.g.

Section 2. Free Appropriate Public Education

A. 34 C.F.R. § 300.13
34 C.F.R. § 300.142(e-f)
IDAPA 16-0309-576.06
B. O.A.G. 80-25
Idaho Code § 33-201
Idaho Code § 33-2002
34 C.F.R. § 300.121
C. 458 U.S. 176 (1982)
853 F.3rd 171 (1988)
D. 34 C.F.R. § 300.312
IDAPA 08.02.03.109.02.c.

Section 3. Other District Programs and Services

A. 34 C.F.R. § 300.305
B. 34 C.F.R. § 300.306
C. 34 C.F.R. § 300.307

Section 4. Teams

A. IDAPA 08.02.03.109.02.i.
B. 34 C.F.R. § 300.533
C. 34 C.F.R. § 300.344
34 C.F.R. § 300.343

Section 5. Summary of Special Education Activities

Citations can be found in Chapters 2-10.

Chapter 1
OVERVIEW

The education of students with disabilities is firmly rooted in the constitutional guarantees involved in the "protection of vulnerable minorities." This relationship means that the provision of services to students with disabilities is a basic civil right protected by the Constitution. Three federal laws have been passed to ensure these constitutional guarantees for individuals with disabilities: The Individuals with Disabilities Education Act (IDEA) Amendments of 1997, Section 504 of the Rehabilitation Act of 1973 (Section 504), and the Americans with Disabilities Act of 1990 (ADA). This manual provides detailed information regarding district responsibilities under the IDEA.

See Appendix 1A and 1B, pages A-3 and A-7 for summary information and resources on Section 504 and the ADA. See Appendix 1C, page A-11 for a comparison of selected components from the IDEA, Section 504, and the ADA.

Section 1. Student Eligibility Under the IDEA

The existence of a disability does not, by itself, mean that a student is eligible under the IDEA. To be eligible for services under the IDEA, a student must have a disability that adversely affects educational performance and requires specially designed instruction. Students must be identified under one or more of the following categories: autism, cognitive impairment, deaf-blindness, deafness, developmental delay, emotional disturbance, health impairment, hearing impairment, language impairment, learning disability, multiple disabilities, orthopedic impairment, speech impairment, traumatic brain injury, or visual impairment including blindness. Pursuant to the Administrative Rules of the Idaho State Board of Education, the State Department of Education (SDE) has established State Eligibility Criteria for special education services for categorical and noncategorical eligibility consistent with the IDEA. Further clarification of the need for special education and the criteria for eligibility can be found in Chapter 3, Section 7, page 33 of this manual.

If a student with a disability needs only a related service and not special education, then the student is not eligible, unless the related service is considered to be special education under state standards. (In Idaho, speech and language therapy are considered to be special education.)

Section 2. Free Appropriate Public Education

A. Definition

Districts are required to ensure that a free appropriate public education (FAPE) is available to students who reside in the district and are eligible for special education. FAPE is individually determined for each student with a disability. FAPE *must* include special education in the least restrictive environment (LRE) and *may* include related services, transition services, supplementary aids and services, and/or assistive technology devices and services. Definitions of each of these terms can be found in the glossary.

The definition of FAPE under the IDEA means special education and related services that:

1. are provided at public expense (free);
2. are provided in conformity with an appropriately developed individualized education program, or IEP (appropriate);
3. are provided under public supervision and direction (public); and
4. include preschool, elementary, and secondary education that meets the education standards, regulations, and administrative policies and procedures issued by the State Department of Education (education).

The district may use Medicaid to pay for special education and related services. However, the district may not require a parent/adult student to sign up or enroll in Medicaid in order for the student to receive FAPE. The district's use of Medicaid must not result in the family (1) incurring out-of-pocket expenses (2) paying for services required outside of school that would otherwise be paid for by Medicaid, or (3) risking loss of eligibility for home and community-based waivers. If the district is billing for Medicaid services, additional procedures must be followed. The district must ensure that parents are notified of the Medicaid services that the district will be submitting for reimbursement. For more information, consult the *Idaho Public Schools Resource Manual: Medicaid Reimbursement Health Related Services* (September 1998). Sample forms are in Appendix 10.

The district may use private insurance, but only with informed consent of the parent/adult student.

B. District Obligation

The district is required to ensure that FAPE is available to students who reside in the district and are eligible for special education. This includes students who reside in group, personal care, or foster homes, as well as institutions, if their parents are residents of Idaho—even though the parents may reside in another Idaho school district. If a student from another state is placed in Idaho by an out-of-state agency or district, the placing district or agency is responsible for the educational costs.

The obligation to make FAPE available to each eligible student in the district exists in one or more of these circumstances:

1. when a child reaches his or her 3rd birthday and through the semester in which the student turns 21 years old or receives a regular high school diploma by completing requirements comparable to regular graduation requirements;
2. if a student has been suspended or expelled from school for more than 10 days in a school year; and
3. even though the student is advancing from grade to grade.

C. Case Law Interpretations of FAPE

The courts have further defined the term FAPE as a result of lawsuits between parents and school districts. In 1982, the United States Supreme Court ruled in the case of *Hendrix Hudson Central School District Board of Education v. Rowley.* This landmark case set a standard for FAPE that is commonly referred to as the *Rowley Standard.* The *Rowley* decision defines FAPE as including these two components:

1. an IEP developed in accordance with IDEA procedures; and
2. an IEP reasonably calculated to enable the student to receive educational benefits.

The *Rowley* decision also states that if a student is being educated in the general education classroom, the IEP should be reasonably calculated to enable the student to achieve passing marks and advance from grade to grade. A subsequent decision by the Third U.S. Circuit Court of Appeals in *Polk v. Central Susquehanna Intermediate Unit 16* clarified the notion of "benefit." In *Polk,* the court concluded that the "educational benefit" conferred must be more than "de minimis," or trivial.

D. Applicability to Charter and Alternative Schools

Federal law requires the district to provide students with disabilities educational choices comparable to those offered to students without disabilities. These choices include the opportunity to attend a charter school or an alternative school. Students enrolled in charter schools and alternative schools are entitled to FAPE and retain all the rights and protections that are available under the IDEA.

Section 3. Other District Programs and Services

The district will ensure that the same array of academic, nonacademic, physical education, and extracurricular activity services is available to students with disabilities as is available to students without disabilities.

A. Educational Programs and Services

The district must take steps to ensure that students with disabilities have available to them the variety of educational programs and services available to all other students served by the district. These may include art, music, industrial arts, consumer and homemaking education, vocational education, and other programs in which nondisabled students participate.

B. Nonacademic and Extracurricular Services and Activities

The district must take steps to provide nonacademic and extracurricular services and activities in a manner that affords students with disabilities an equal opportunity to participate in those services and activities. This includes counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the district, referrals to agencies that provide assistance to persons with disabilities, and employment of students, including both employment by the district and assistance in making outside employment available.

C. Physical Education Services

Physical education services, specially designed if necessary, must be made available to students with disabilities receiving FAPE. Each student with a disability must be afforded the opportunity to participate in the general physical education program available to all other students unless:

1. the student is enrolled full time in a separate facility; or

2. the student needs specially designed physical education, as prescribed in the student's IEP.

If specially designed physical education is required in a student's IEP, the district must provide the services directly or must make arrangements for services to be provided through other public or private programs.

The district responsible for the education of a student with disabilities who is enrolled in a separate facility must ensure that the student receives appropriate physical education services.

Section 4. Teams

Three different teams are discussed in this manual.

A. Prereferral Team

The prereferral team is established at the local level. The name of the team may vary, but the purpose is to problem solve regarding the needs of a student in the educational environment.

Team membership is determined by the school or the district. The team would likely be comprised of general educators and administrators, and could include counselors, specialists, and special education personnel. While parent/adult student involvement on the referral team is valuable, it is not required. Meeting schedules and procedures are established locally.

B. Evaluation Team

The evaluation team is a group of people established by the IDEA with responsibility to make decisions regarding evaluation, assessments, and eligibility. This team includes the same membership as the IEP team (although not necessarily the same individuals) and other qualified professionals as appropriate. The parent/adult student is a member of the evaluation team and must be provided an opportunity to provide input and participate in making team decisions. The evaluation team generally may conduct its business with or without a meeting. However, if requested by the parent/adult student, a team meeting will be held. The IDEA procedural safeguards apply to all activities of the evaluation team.

C. The IEP Team

The IEP team consists of members established by the IDEA. The IEP team develops the IEP, determines placement, and subsequently reviews and revises the IEP and placement at least annually. Membership and roles are discussed further in Chapter 4, Section 1, page 55. The IEP team conducts its business in meetings. The IDEA procedural safeguards apply to all activities of the IEP team.

Section 5. Summary of Special Education Activities

This section describes the steps in the special education process. Some of the activities listed satisfy a need in the process, although they may not be required by regulation. The steps, and the activities within each step, are often sequential but could occur simultaneously. The process might occur in a different sequence for emergency or interim placements. A flowchart of these steps is included at the end of this chapter.

Throughout this manual the term "parent/adult student" generally refers to the student's parent. However, the term refers to the adult student if he or she is at least 18 years of age or older and his or her parent has not retained special education rights through an IEP team decision or guardianship proceedings. See Chapter 7, Section 1, page 93 for further information on the definitions of parent and adult student.

A. Child Find/Prereferral Activities (completed by prereferral team)

Child Find is a process to locate, identify, and evaluate students who reside in the district and may be in need of special education. The district will establish a team process to problem solve and plan general education interventions to ensure that referrals to special education are appropriate. Modifications and instructional interventions must be attempted in the general education classroom before a student is referred to an evaluation team. These modifications and interventions must be of sufficient scope and duration and must be clearly documented.

If the student shows adequate progress with prereferral activities—modifications and interventions—a referral to consider a special education evaluation may be unnecessary. However, if modifications and interventions must be provided on an ongoing basis, or if the student shows limited or no progress, a referral to consider a special education evaluation is warranted.

There may be circumstances where prereferral modifications and interventions would inappropriately delay the provision of special education services. In these cases, the submission of a referral to consider a special education evaluation should proceed without delay.

See Chapter 2, Section 4, page 17 for more information on prereferral activities.

B. **Referral to Consider a Special Education Evaluation** (completed by prereferral team and evaluation team)

Following the review of the effect of prereferral activities, a referral to consider a special education evaluation must be initiated if a disability that adversely impacts education is suspected. The purpose of this referral is to bring a student to the attention of an evaluation team so that it can determine whether to conduct a special education evaluation.

A referral to consider a special education evaluation marks the point at which procedural safeguards are activated. The parent/adult student must be involved in decisions once a formal referral has been made to the evaluation team to consider a special education evaluation.

The evaluation team must review existing data, including assessments and information provided by the parent/adult student, and determine the need for further assessment.

See Chapter 2, Section 5, page 18 for more information on referral to consider a special education evaluation.

C. **Written Notice and Consent** (completed by evaluation team)

Before administering assessments, written notice must be provided to the parent and adult student and consent must be obtained from the parent/adult student. The district may use a single form that meets the requirements of consent for assessment and written notice. In addition, if information is needed from non-educational agencies for an evaluation, consent must be sought for the release of information. See Chapter 3, Section 3, page 24 and Chapter 7, Sections 2 and 3, pages 97 and 99 for more information.

D. Evaluation and Eligibility Determination (completed by evaluation team)

After receipt of consent, schedule and conduct the assessments. Next, review the assessment data and recommendations, and determine if the student is eligible for special education services. Compile an *Eligibility Report* using data collected from individual assessments and provide the parent/adult student with a copy of the report. See Chapter 3, Section 5, page 27 for more information. It is generally permissible for the team to conduct the review of data and to determine eligibility outside a formal meeting but a meeting must be held if the parent/adult student so desires.

If the student is not eligible, provide written notice of the district's refusal to identify the student as eligible for special education. Maintain documentation in permanent records. (A student ineligible under the IDEA may be considered to have a disability under Section 504.)

If the parent/adult student disagrees with the district's evaluation, he or she has the right to an independent educational evaluation. See Chapter 7, Section 7, page 110 for more information.

E. IEP Development and Implementation (completed by IEP team)

The total time frame from the receipt of consent to assess to the implementation of the IEP cannot exceed 60 calendar days, excluding periods when regular school is not in session for five or more consecutive school days. An extension may be granted only when all parties have agreed in writing to the extension.

The following activities are included in the development and implementation of the IEP:

1. Conduct an IEP team meeting to develop an IEP within 30 calendar days of a determination that the student is eligible for special education and related services. For eligible students, the IEP can be developed at the same meeting at which eligibility is determined if all required IEP team members are present and agree to proceed.

2. After determining goals, benchmarks/short-term objectives (hereafter objectives), and services, determine the placement in the LRE in which the IEP can be implemented.

3. Obtain signatures or other appropriate documentation indicating participation in the IEP team meeting.

4. Obtain consent from the parent/adult student for initial placement in special education.

5. Provide copies of the IEP to the parent/adult student and other participants, as appropriate.

6. Provide written notice to the parent and the adult student before implementing the IEP.

7. Make arrangements for IEP services.

8. The IEP will be implemented as soon as possible after it is developed.

9. Provide the parent with reports of the student's progress on IEP goals and benchmarks/objectives as specified on the IEP at least as often as the parents of nondisabled students are informed of their children's progress.

See Chapter 4, Section 2, page 58 for more information on IEP development.

F. Review and Revision of IEP and Placement Decision (completed by IEP team)

1. Send the parent and the adult student a *Special Education Rights Statement* with an invitation to attend an IEP meeting.

2. Convene an IEP team meeting under these circumstances:

    a. when changes in the IEP are requested or if the student is not making progress; and

    b. at least annually to review eligibility, develop a new IEP, and determine placement.

3. Provide written notice to the parent and the adult student when an IEP is amended or rewritten, or when the student is no longer eligible.

4. Under Idaho regulations, the parent/adult student has the right to file a written objection to changes proposed by the district. If, within 10 calendar days of receiving written notice from the district, the parent/adult student files a written objection to all or part of the proposed IEP or placement, the district will not implement the changes to which the parent/adult student objects. Consult Chapter 7, Section 3E, page 101 for more information.

See Chapter 4, Section 4, page 73 for more information on IEP reviews.

G. Reevaluation (completed by evaluation team)

Reevaluation is conducted by the evaluation team. A reevaluation to determine whether a student continues to be eligible for special education services is completed at least every 3 years, or when requested by the student's teacher or the parent/adult student, or whenever conditions warrant. Approximately one month before the reevaluation, inform the parent/adult student that reevaluation is due and provide the parent and the adult student with a copy of the *Special Education Rights Statement*.

1. Invite the parent/adult student to participate in the review of existing data and the determination of what additional data, if any, is needed as part of the reevaluation.

Unless the parent/adult student requests that the evaluation team members meet as a group in a formal meeting, information can be gathered from individual team members at various times using a variety of methods.

2. Consent from the parent/adult student must be obtained only if additional assessments will be conducted. After gaining consent, complete assessments and evaluation reports.
3. If the evaluation team determines that additional assessments are not needed, provide written notice to the parent and the adult student of this decision and of the parent's/ adult student's right to request assessments.
4. An *Eligibility Report* detailing the eligibility requirements for the student is required even when no new assessments are conducted. The report must address each required eligibility component.
5. Provide the parent/adult student with a copy of the *Eligibility Report*.
6. If the student continues to be eligible, develop and implement an IEP. If the student is not eligible, follow procedures to discontinue services.

See Chapter 3, Section 6, page 31 for more information on reevaluation.

H. Discontinuation of Services

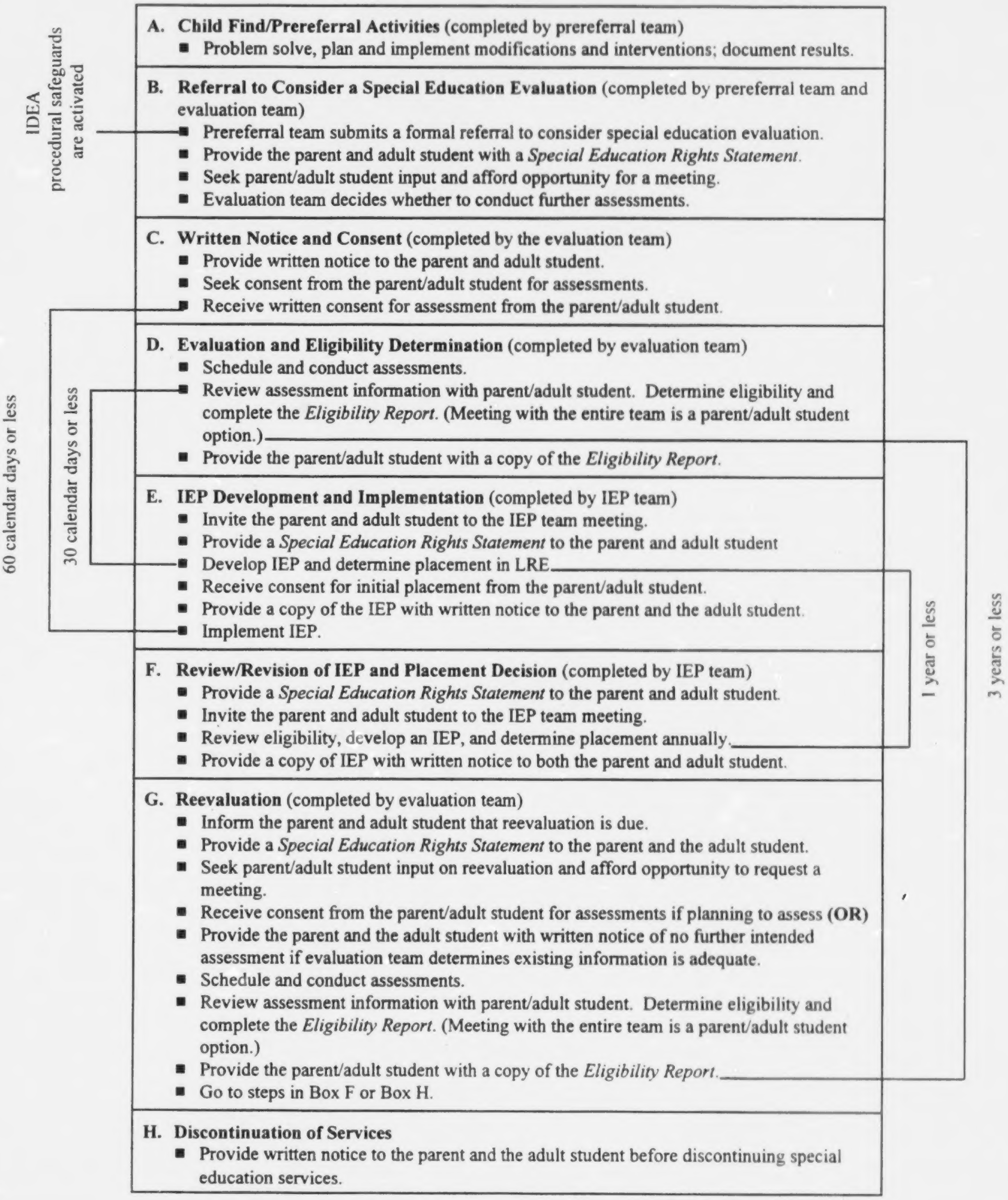
Provide written notice to the parent and the adult student informing them of the discontinuation of services when:

1. the evaluation team determines the student no longer meets eligibility requirements for special education services; or
2. the student meets the requirements for graduation and is awarded a regular high school diploma; or
3. the student completes the semester in which he or she reaches the age of 21 years.

See Chapter 6, Sections 1 and 2, page 85 for more information on the discontinuation of services.

Special Education Activities

Steps correspond to headings in Chapter 1, Section 5. See Appendix 10 for sample forms to complete activities.



A. Child Find/Prereferral Activities (completed by prereferral team)
- Problem solve, plan and implement modifications and interventions; document results.

B. Referral to Consider a Special Education Evaluation (completed by prereferral team and evaluation team)
- Prereferral team submits a formal referral to consider special education evaluation.
- Provide the parent and adult student with a *Special Education Rights Statement*.
- Seek parent/adult student input and afford opportunity for a meeting.
- Evaluation team decides whether to conduct further assessments.

C. Written Notice and Consent (completed by the evaluation team)
- Provide written notice to the parent and adult student.
- Seek consent from the parent/adult student for assessments.
- Receive written consent for assessment from the parent/adult student.

D. Evaluation and Eligibility Determination (completed by evaluation team)
- Schedule and conduct assessments.
- Review assessment information with parent/adult student. Determine eligibility and complete the *Eligibility Report*. (Meeting with the entire team is a parent/adult student option.)
- Provide the parent/adult student with a copy of the *Eligibility Report*.

E. IEP Development and Implementation (completed by IEP team)
- Invite the parent and adult student to the IEP team meeting.
- Provide a *Special Education Rights Statement* to the parent and adult student
- Develop IEP and determine placement in LRE.
- Receive consent for initial placement from the parent/adult student.
- Provide a copy of the IEP with written notice to the parent and the adult student.
- Implement IEP.

F. Review/Revision of IEP and Placement Decision (completed by IEP team)
- Provide a *Special Education Rights Statement* to the parent and adult student.
- Invite the parent and adult student to the IEP team meeting.
- Review eligibility, develop an IEP, and determine placement annually.
- Provide a copy of IEP with written notice to both the parent and adult student.

G. Reevaluation (completed by evaluation team)
- Inform the parent and adult student that reevaluation is due.
- Provide a *Special Education Rights Statement* to the parent and the adult student.
- Seek parent/adult student input on reevaluation and afford opportunity to request a meeting.
- Receive consent from the parent/adult student for assessments if planning to assess **(OR)**
- Provide the parent and the adult student with written notice of no further intended assessment if evaluation team determines existing information is adequate.
- Schedule and conduct assessments.
- Review assessment information with parent/adult student. Determine eligibility and complete the *Eligibility Report*. (Meeting with the entire team is a parent/adult student option.)
- Provide the parent/adult student with a copy of the *Eligibility Report*.
- Go to steps in Box F or Box H.

H. Discontinuation of Services
- Provide written notice to the parent and the adult student before discontinuing special education services.

Chapter 2
IDENTIFICATION

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Chapter 2
IDENTIFICATION

Legal Citations

Abbreviations Used:
Code of Federal Regulations (C.F.R.)
Idaho Administrative Procedures Act
(IDAPA)

Section 1. District Responsibility
34 C.F.R. § 300.125
34 C.F.R. § 300.451
IDAPA 08.02.03.109.02.d.

Section 2. Location
A. 34 C.F.R. § 300.125(c)
Idaho Code 16-103(11-12)
B. 34 C.F.R. § 300.125

Section 3. Screening

Section 4. Prereferral Activities
A. IDAPA 08.02.03.109.02.i.

Section 5. Referral to Consider a Special Education Evaluation
A. 34 C.F.R. § 300.533
B. 34 C.F.R. § 300.533
34 C.F.R. § 300.504
34 C.F.R. § 300.503
34 C.F.R. § 300.505

Chapter 2
IDENTIFICATION

The Child Find System involves three basic steps leading to the determination of whether or not a student has a disability and requires special education. The steps are location, identification, and evaluation. This chapter describes location and identification activities. The evaluation step is covered in Chapter 3.

Section 1. District Responsibility

The district is responsible for establishing and implementing an ongoing Child Find System to locate, identify, and evaluate students with disabilities, ages birth through 21 years, who may need special education.

This system must include all students residing in the district including those who are:

1. enrolled in public school;
2. enrolled in charter and private (including parochial) schools;
3. home schooled;
4. not enrolled in school, including children ages 3 through 5;
5. students who may have disabilities who are advancing from grade to grade; and
6. highly mobile students (such as migrant and homeless students).

Child Find activities for students who are home schooled or enrolled in charter schools and private schools (including parochial schools) must be comparable to Child Find activities for students enrolled in regular public school.

Section 2. Location

The location components of the Child Find System are coordination and public awareness.

A. Coordination

For infants and toddlers, birth through 2 years of age, Child Find is provided by the Idaho Infant/Toddler Program. Although lead responsibility for the Infant/Toddler Program has been designated to the Department of Health and Welfare, interagency agreements provide for collaboration and coordination. The district should use local interagency agreements for efficient use of resources and for ease of accessibility to services for students and families.

The district should appoint someone to be responsible for coordinating the development, revision, implementation, and documentation of the Child Find System.

B. Public Awareness

Annually, by November 1st, the district will take the necessary steps to ensure that district staff and the general public are informed of the following:

1. the availability of special education services;
2. student rights to a free appropriate public education (FAPE);
3. confidentiality protections; and
4. the referral process.

This information may be provided through a variety of methods such as distributing brochures or flyers, including information in school or district publications, disseminating articles and announcements to newspapers, arranging for radio and television messages and appearances, speaking at faculty meetings or district in-services and making presentations.

See Appendix 2C, page A-35 for a sample *Child Find Announcement*.

Section 3. Screening

The identification component includes screening, prereferral activities, and referral to consider a special education evaluation.

Screening programs are intended to efficiently collect information. Activities such as reviewing schoolwide, statewide, and districtwide assessment results from screening areas such as achievement tests and curriculum-based measurements can help identify students in need of further consideration. Other examples of common screening areas include, but are not limited to, hearing, vision, early childhood development, and kindergarten readiness.

Although screening is an important part of the system, screening cannot be used to delay processing a referral for consideration of a special education evaluation where immediate action is warranted.

Section 4. Prereferral Activities

Prereferral activities are the next component in the identification process. Prereferral activities include modifications and instructional interventions conducted in the general education environment and/or curriculum. For preschool students it may include intervention data gathered from other settings. Although prereferral activities are an important part of the system, they cannot be used to delay processing a referral for consideration of a special education evaluation where immediate action is warranted.

A. Establishing a Prereferral Team

The district will establish a prereferral team process to problem solve and plan general education modifications and instructional interventions to ensure that referrals to consider a special education evaluation are appropriate. Prereferral team membership is established by the school or the district and would likely involve general educators and administrators, and could include counselors, specialists, and special education personnel. While parent/adult student involvement is valuable, the district is not required to include the parent/adult student on the prereferral team. The team should seek input from child care programs, private preschools, or Head Start Programs as appropriate for preschool students.

B. Referrals to the Prereferral Team

Referrals to the prereferral team may come from a variety of sources including parents, students, other family members, public or private school personnel, agencies, screening programs, or as a result of annual public notice. Referrals may be made for an assortment of reasons or concerns.

C. Modifications and Instructional Interventions

The intent of prereferral modifications and instructional interventions is to identify and address learning problems early. The terms are defined as follows:

1. **Modification**: An accommodation or adaptation to the general education environment and/or curriculum to meet the individual needs of a student with a disability. Modifications may also include an alternative or supplemental curriculum.

2. **Instructional intervention**: An action or strategy based on an individual student's problem that is designed to remediate, improve, or eliminate the identified problem.

Modifications and interventions may include teaching strategies, curriculum adaptations, material accommodations, social skills training, cooperative learning concepts, classroom organization, and scheduling. Modifications and interventions are used as follows:

1. Modifications and interventions must be attempted in general education before a school-age student is referred to an evaluation team.

2. Modifications and interventions must be of sufficient scope and duration to determine their effects on the student's educational performance and should be clearly documented.

3. Documentation of the success or failure of modifications and interventions must be reviewed and discussed by the prereferral team.

Refer to Appendix 2A, page A-21 for more information on modifications and instructional intervention activities.

D. Prereferral Team Decisions

Based on a review of data and information presented by the referring party and others, the prereferral team has several decision options. In the case of a preschool student, data and information must be gathered and reviewed from such settings as child care programs, private preschools, Head Start Programs, or the home. The prereferral team may determine one or more of the following:

1. Modifications and interventions in general education should be continued.

2. Additional modifications and interventions should be attempted.

3. Services or programs outside of special education (such as Title I of the Elementary and Secondary Education Act, Section 504 accommodations, counseling) should be considered.

4. A referral should be made to the evaluation team to consider a special education evaluation. The data collected and recorded by the prereferral team must be considered by the evaluation team during the evaluation process and by the IEP team during the development of an IEP.

Section 5. Referral to Consider a Special Education Evaluation

A. Evaluation Team

The evaluation team is the group of people established by the IDEA that has the responsibility for making decisions regarding evaluation, assessments, and eligibility. The composition of the evaluation team will vary depending on the nature of the student's suspected disability and other relevant factors. The evaluation team must include the same membership (although not necessarily the same individuals) as the IEP team and other professionals as needed to ensure that appropriate, informed decisions are made. However, unlike the IEP team, the evaluation team has the flexibility of conducting business with or without a meeting. The case manager can gather input from evaluation team members in a variety of ways. The parent/adult student must be included in the evaluation team and must be given the opportunity to indicate whether he or she wishes the team to hold a meeting with all members attending.

B. Procedure for Handling Referrals

The procedure for handling referrals to consider a special education evaluation for students suspected of having a disability includes the following:

1. Unless immediate action is warranted, prereferral activities as delineated in Section 4 of this chapter must be conducted before a referral to consider a special education evaluation is sent to the Evaluation team.

2. A *Referral to Consider a Special Education Evaluation* form must be completed. A sample form can be found in Appendix 10, page A-233.

3. Procedural safeguards are activated when a referral is made to consider a special education evaluation. If the referral came from someone other than the parent/adult student, the parent and adult student will be notified. In either case, the parent and adult student will be provided with a copy of the *Special Education Rights Statement*. At the same time, the parent/adult student will be afforded an opportunity to provide input regarding the need for and scope of the initial evaluation, including the opportunity to hold a meeting if desired. See Appendix 10, page A-235 for a sample letter to request input for an evaluation/reevaluation.

4. The evaluation team (including the parent/adult student) reviews all available records, including family and health history, past school experiences, the results of prereferral interventions, and previous assessments and evaluations. The evaluation team will decide whether one or more assessments are appropriate. This review and determination process can take place in one large formal meeting or through an alternate format unless the parent/adult student desires that a meeting be held.

    a. If the evaluation team determines that an evaluation is warranted, written notice must be provided to the parent and the adult student and written consent must be obtained from the parent/adult student. (The form in Appendix 10, page A-239 can be used for both notice and consent.)

    b. If the evaluation team determines that an assessment is not warranted at this time, the evaluation team should seek other avenues for services to meet the student's needs. The person initiating the referral, if other than the parent/adult student, should be informed as to why the assessment is not being conducted. Written notice of the district's refusal to assess must be provided to the parent and adult student. Refer to Appendix 2B, page 33 for suggestions for delivering sensitive information to parents.

See Chapter 3 for more information on evaluation and assessment procedures.

Chapter 3
EVALUATION AND ELIGIBILITY

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Chapter 3
EVALUATION AND ELIGIBILITY

Legal Citations

Abbreviations Used:
- Code of Federal Regulations (C.F.R.)
- Idaho Administrative Procedures Act (IDAPA)
- Education for the Handicapped Law Report (EHLR)
- Family Educational Rights and Privacy Act (FERPA)
- Office of Special Education Programs (OSEP)

Introduction
IDAPA 08.02.03.109.03.

Section 1. Evaluation Team
A. 34 C.F.R. § 300.533

Section 2. Purpose of an Evaluation
A. 34 C.F.R. § 300.500(b)(2)
B. 34 C.F.R. § 300.531
34 C.F.R. § 300.320

Section 3. Written Notice and Consent for Assessment
A. 34 C.F.R. § 300.503
B. 34 C.F.R. § 300.505(a)
34 C.F.R. § 300.500(b)(1)
34 C.F.R. § 300.505(b)
34 C.F.R. § 300.500(b)(1)(iii)
C. 34 C.F.R. § 300.505 Discussion

Section 4. Information from Other Agencies or Districts
34 C.F.R. § 300.571
34 C.F.R. § 99.31 (FERPA)

Section 5. Evaluation and Eligibility Determination Procedures
A. 34 C.F.R. § 300.532(g-h)
34 C.F.R. § 300.346(a)
B. 34 C.F.R. § 300.533
C. 34 C.F.R. § 300.532
D. 34 C.F.R. § 300.533
IDAPA 08.02.03.109.03.
34 C.F.R. § 300.534
34 C.F.R. § 300.535
34 C.F.R. § 300.532(b)

Section 6. Reevaluation and Continuing Eligibility
34 C.F.R. § 300.536
34 C.F.R. § 300.534(c)
A. 34 C.F.R. § 300.503
34 C.F.R. § 300.504(a)
B. 34 C.F.R. § 300.533
34 C.F.R. § 300.505
34 C.F.R. § 300.345(d)
34 C.F.R. § 300.13
C. 34 C.F.R. § 300.534

Section 7. State Eligibility Criteria
34 C.F.R. § 300.7
IDAPA 08.02.03.109.03.
I. Letter to Kennedy, 16 EHLR 1082 (OSEP 1990)
34 C.F.R. § 300.542
34 C.F.R. § 300.541
34 C.F.R. § 300.543

Chapter 3
EVALUATION AND ELIGIBILITY

Several phases are involved in establishing that a student is eligible for special education. Chapter 2 discussed procedures to locate and identify students with suspected disabilities. This chapter outlines the requirements for evaluations and assessments. It also includes the State Eligibility Criteria for special education services for *categorical* eligibility. Additionally, districts should be aware of the following:

- Evaluation teams must use the State Eligibility Criteria for *categorical* eligibility to determine eligibility unless a waiver has been approved for *noncategorical* eligibility. Procedures and criteria for noncategorical eligibility may be used *only* by schools/districts that have applied for and been granted a noncategorical eligibility waiver.

- The category of developmental delay (DD) is optional. If the district elects to use the DD category, it will use the 3 through 9 age range and the criteria outlined in Section 7E, page 36 of this chapter.

Except as noted above, State Eligibility Criteria must be used by all districts, even those that do not adopt this manual as their policies and procedures for special education.

Section 1. Evaluation Team

The evaluation team is a group of people established by the IDEA with responsibility to make decisions regarding evaluation, assessments, and eligibility. This team includes the same membership as the IEP team (although not necessarily the same individuals) and other qualified professionals as appropriate. The parent/adult student is a member of the evaluation team and must be provided an opportunity to provide input and participate in making team decisions. The evaluation team generally may conduct its business with or without a meeting. However, if requested by the parent/adult student, a team meeting will be held.

Section 2. Purpose of an Evaluation

A. Definitions

"Evaluation" and "assessment" are defined as follows:

1. **Evaluation** is a broad term that encompasses the assessment process as well as what the evaluation team does with assessment and related information within the context of identification, placement, and appropriate programming questions.

2. **Assessment** is an integral component of the evaluation process. It is the formal or informal process of systematically observing, gathering, and recording credible information to help answer evaluation questions and make decisions. A test is one method of obtaining credible information within the assessment process. Tests may be standardized or nonstandardized, criterion- or norm-referenced, and usually elicit responses from students to situations, questions, or problems to be solved. Assessment data may also include observations, interviews, classroom work samples, data regarding the effects of general education modifications and interventions and other formal or informal data.

B. Purpose of an Evaluation

The district will conduct a full and individual initial evaluation before the provision of special education and related services to a student with a disability. This initial evaluation will consist of procedures to determine:

1. whether the student has a disability;

2. whether the student requires special education and/or related services;

3. educational needs;

4. the nature and extent of special education and related services needed by the student; and

5. the least restrictive environment for the student.

Section 3. Written Notice and Consent for Assessment

Written notice must be provided and informed consent must be obtained before assessments are administered to a student as part of an evaluation or reevaluation. A single form that meets the requirements of both written notice and consent can be used. See Appendix 10, page A-239 for a sample *Consent for Assessment* form that meets the requirements for written notice and consent.

A. Written Notice Requirements

Written notice must be provided to the parent and adult student a reasonable time (usually at least 10 days) before the district administers assessments as part of an evaluation or reevaluation.

Written notice must be in a language understandable to the general public. It must be provided in the native language or other mode of communication normally used by a parent and adult student unless it is clearly not feasible to do so. If the native language or other mode of communication is not a written language, the district must take steps to ensure the following:

1. The notice is translated orally or by other means in the native language or other mode of communication.
2. The parent and adult student understand the content of the notice.
3. There is written evidence that the notice requirements of this section have been met, such as a written record in the student's special education file documenting what was discussed.

The written notice must include the following:

1. a description of the evaluation or reevaluation proposed or refused by the district;
2. an explanation of why the district proposes to evaluate or reevaluate the student;
3. a description of any other options the district considered and the reasons why those options were rejected;
4. a description of each assessment procedure, test, record, or report the district used as a basis for the evaluation or reevaluation;
5. a description of any other factors relevant to the evaluation or reevaluation;
6. a statement that the parent and adult student have special education rights and a description of how to obtain a copy of a *Special Education Rights Statement*; and
7. sources to contact in obtaining assistance in understanding the special education rights.

See Chapter 7, Section 3, page 99 for more information on written notice.

B. Consent Requirements

Informed consent must be obtained from the parent/adult student before the district conducts assessments as part of an evaluation or reevaluation of the student.

1. Definition of Consent

   Consent means that the parent/adult student:

a. has been fully informed in his or her native language or other mode of communication of all information relevant to the assessment for which consent is sought;

b. understands and agrees in writing (as indicated by signature) to the carrying out of the activity; and

c. is given enough information to make rational decisions about the district's request to conduct an assessment. Information must be provided on the various types of assessments for which consent is sought.

Consent for assessment must not be construed as consent for special education placement.

2. Refusing Consent

The parent/adult student can refuse consent for general areas of assessment, for specific procedures, or for assessment altogether.

If consent is refused for an initial assessment, the student cannot be assessed. However, the district may request mediation or a due process hearing. If the mediation results in consent to assess, or if a hearing officer's decision indicates that assessment is appropriate and there is no appeal, then the student may be assessed.

See Section 6, page 32 of this chapter if the parent/adult student refuses consent for assessment as part of reevaluation.

3. Revoking Consent

A parent/adult student who has provided consent must understand that granting consent is voluntary and may be revoked at any time before the assessment. However, once the assessment has been completed, revocation of consent cannot be used to have the assessment disregarded.

See Chapter 7, Section 2, page 97 for more information on consent.

C. When Written Notice and Consent Are Not Required

Neither written notice nor consent are required for the following:

1. to review existing data as part of an evaluation or reevaluation;

2. to administer a test or other assessment that is administered to all students unless consent is required of parents of all students; and

3. for teacher or related service provider observations, ongoing classroom evaluation, or criterion-referenced tests that are used as assessments in determining the student's progress toward goals and benchmarks/objectives on the IEP.

Section 4. Information from Other Agencies or Districts

Consent for release of information must be received before the district seeks to obtain information about the student from other agencies. Upon receipt of consent, the case manager will send letters requesting information to individuals or agencies that have relevant information about the student. A copy of the signed consent form for release of information must be included with the letters and a copy must be retained in the student's confidential file. Sources of this additional information may include records from health and social service agencies, private preschool programs, legal service agencies, and nonschool professionals such as physicians, social workers, and psychologists.

See Appendix 10, page A-237 for a sample *Authorization for Exchange of Confidential Information* form.

Federal laws and regulations do not require consent for the district to:

1. request information from other districts that the student has attended; or
2. send information to other districts in which the student intends to enroll.

Section 5. Evaluation and Eligibility Determination Procedures

A. Areas to Assess

The student must be assessed in all areas related to the suspected disability, which may include health, vision, hearing, social and emotional status, general intelligence, academic performance, adaptive behavior, communicative status, and motor abilities. It may also be necessary to assess functional vocational skills, English proficiency, reading and writing skills (for students who are blind or visually impaired), and communication needs (for students who are deaf or hard of hearing). If needed, qualified personnel must conduct an individual assessment of assistive technology needs, including a functional evaluation in the individual's customary environment. The evaluation of each student with a disability must be sufficiently comprehensive to identify all of the student's special education and related service needs, whether or not commonly linked to the disability category in which the student may be classified.

B. Determination of Needed Evaluation Data

As part of an initial evaluation (if appropriate) and as part of any reevaluation, the evaluation team will review existing evaluation data on the student including:

1. assessments and information provided by the parent of the student;
2. data regarding the effectiveness of general education modifications and interventions;
3. current classroom-based assessments and observations;
4. observations by teachers and related service providers; and
5. results from statewide and districtwide testing.

The evaluation team may conduct its review without a meeting unless the parent/adult student requests that a meeting be held. The evaluation team includes the same membership (although not necessarily the same individuals) as the IEP team and other professionals as needed to ensure that appropriate, informed decisions are made. The specific composition of the evaluation team reviewing existing data will vary depending upon the nature of the student's suspected disability and other relevant factors.

Based on that review, and input from the parent/adult student, the evaluation team will decide on a case-by-case basis what additional data, if any, is needed to determine:

1. whether the student has or continues to have a particular category of disability;
2. the present levels of performance and the educational needs of the student;
3. whether the student needs or continues to need special education and related services; and
4. whether any additions or modifications to the special education and related services are needed to enable the student (a) to meet the measurable annual goals set out in the student's IEP and (b) to participate, as appropriate, in the general education curriculum, or, for preschool students, to participate in appropriate activities.

When the evaluation team determines that additional assessments are not required for the purpose of determining whether the student meets or continues to meet eligibility criteria during an evaluation or a reevaluation, the district must provide written notice to the parent and adult student of the decision and the reasons for that decision. The parent and adult student must also be informed of his or her rights to request assessments when necessary to determine eligibility.

C. Assessment Procedures and Instruments

The district must ensure, at a minimum, that the evaluation or reevaluation meets the following requirements:

1. Tests and other materials must be selected and administered so as not to be discriminatory on a racial or cultural basis.

2. Tests and other materials must be provided and administered in the student's native language or other mode of communication, unless it is clearly not feasible to do so. Attempts to provide a qualified examiner in the student's native language or mode of communication must be documented.

   In all direct contact with a student, the language normally used by the student in the home or learning environment must be used. For an individual with deafness or blindness, or for an individual with no written language, the mode of communication is that normally used by the individual (such as sign language, Braille, or oral communication).

3. Materials used to assess a student with limited English proficiency must be selected and administered to ensure that they measure the extent to which the student has a disability and needs special education, rather than measuring the student's English language skills.

4. A variety of assessment tools and strategies must be used to gather relevant functional and developmental information about the student, including information provided by the parent, and information related to enabling the student to be involved in and progress in the general education curriculum (or for a preschooler, to participate in appropriate activities).

5. Standardized tests must have been validated for the specific purpose for which they are being used.

6. Standardized tests must be administered by trained and knowledgeable personnel in accordance with any instructions provided by the producer of the tests.

7. If an assessment is not conducted under standard conditions, a description of the extent to which it varied from standard conditions (e.g., the qualifications of the person administering the test, or the method of test administration) must be included in the *Eligibility Report*.

8. Tests and other assessment materials must include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.

9. Tests must be selected and administered so as to best ensure that if a test is administered to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect the student's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills (unless those are the factors that the test purports to measure).

10. No single procedure may be used as the sole criterion for determining whether a student is a student with a disability and for determining an appropriate educational program for the student.

11. The district must use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors in addition to physical or developmental factors.

12. The district must provide and use assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the student.

13. All services and assessments must be provided at no expense to the parent.

D. Eligibility Determination and Report

The evaluation team will consider evaluation or reevaluation findings and determine whether the student has, or continues to have, a particular category of disability. A student cannot be identified as a student with a disability if the reason for such a decision is lack of instruction in reading or math, or limited English proficiency. In interpreting evaluation data for the purpose of determining if a child is a child with a disability, the evaluation team shall draw upon information from a variety of sources, including aptitude and achievement tests, parent input, teacher recommendations, physical condition, social or cultural background, and adaptive behavior.

State Eligibility Criteria for each category of disability are provided by the State Department of Education (SDE) and must be used unless the school/district has a noncategorical waiver. State Eligibility Criteria can be found in Section 7, page 33 of this chapter.

Upon completing the student's evaluation or reevaluation, the evaluation team must prepare an *Eligibility Report* and provide a copy of the report to the parent/adult student. Although there is not a specific time line established, the parent/adult student and other IEP team participants must have all the information they need to participate meaningfully in the IEP team meeting.

The *Eligibility Report* includes:

1. all data on the student as required in the State Eligibility Criteria for the area of suspected disability (see Section 7, page 33 of this chapter);

2. information about how the student's disability adversely affects his or her educational performance;

3. a description of the extent to which the assessment varied from standard conditions if the assessment was not conducted under standard conditions (e.g., the qualifications of the person administering the test, or the method of test administration);

4. the team's decision regarding whether the student needs special education services;

5. the date of the eligibility determination; and

6. the names of all those administering assessments.

A copy of the report must be given to the parent/adult student.

See the sample *Eligibility Report* form in Appendix 10, page 243.

Section 6. Reevaluation and Continuing Eligibility

To document and establish continuing eligibility in Idaho, the district must ensure that an individual reevaluation of each student with a disability is completed:

1. at least once every 3 years;

2. if the parent/adult student or the student's teacher requests a reevaluation; or

3. if conditions warrant (e.g., there is sufficient information to suspect that a significant change in a student's educational functioning has occurred and additional information is needed).

The district must also reevaluate a student with a disability before determining that the student is no longer eligible for special education. However, reevaluation is not required if the student will receive a regular high school diploma or reach the end of the semester in which he or she turns 21 years old.

A. Informing the Parent and Adult Student

Approximately one month before the reevaluation is due, contact must be made with the parent and adult student informing him or her that:

1. the reevaluation will be occurring soon;

2. input will be sought from the parent/adult student; and

3. the reevaluation process may be accomplished with or without a meeting, although the parent/adult student has the option of requesting a meeting.

A copy of the *Special Education Rights Statement* must be provided at this time. See Appendix 10, page A-235 for a sample letter to request input for an evaluation/reevaluation.

B. Nature and Extent of Reevaluation

Before any reassessment of the student, the evaluation team will determine the nature and extent of the student's needs by reviewing existing data. See Section 5B, page 28 of this chapter for more information.

1. No Additional Information Needed:

   If the evaluation team decides that no additional assessment are needed to determine whether the student continues to be a student with a disability, the district must provide written notice to the parent and the adult student of his or her right to request further assessment to determine whether the student continues to have a disability for the purpose of services under the IDEA, Part B. The parent/adult student's request for additional assessment is limited to determining whether the student continues to have a disability under the IDEA and does not include the right to additional testing for reasons such as admission to college.

2. Additional Assessments Needed:

   Based on recommendations from the evaluation team, the district will seek consent to administer the needed assessments. If the parent/adult student fails to respond after the district has taken reasonable measures to obtain consent for assessments as part of a reevaluation, the district may proceed with the assessments. To meet the standard of "reasonable measures," the district must have:

   a. a record of telephone calls made or attempted and the results of those calls;

   b. copies of correspondence sent to the parent and any response received; and/or

   c. detailed records of visits made to the parent's home or place of employment and the results of those visits.

   If the parent/adult student denies consent to reassess, the student cannot be assessed. However, the district may request mediation or a due process hearing. If the mediation results in consent to assess, or if a hearing officer's decision indicates the assessment is appropriate and there is no appeal, then the student may be assessed.

All reevaluation procedures must be provided at no expense to the parent/adult student.

C. Eligibility Report for Reevaluations

The evaluation team will consider evaluation findings and determine whether the student continues to have a disability.

The evaluation team is required to write an *Eligibility Report* detailing how the student meets eligibility requirements even if no new assessments were conducted. The report must address each required eligibility component and include results of previous assessments if they are being used to determine eligibility. Refer to Section 5D, page 30 of this chapter for eligibility report requirements.

Section 7. State Eligibility Criteria

The district will use the eligibility criteria and assessment procedures set forth by the SDE for placement in special education. These criteria and assessment procedures are listed as A-O in this section. Listed under each disability definition are the eligibility criteria and assessment procedures that must be used to determine whether an individual qualifies as a student with a disability in need of special education and/or related services.

All disabilities except Learning Disability (LD) and Developmental Delay (DD) are applicable for students 3 through 21 years of age. For Learning Disability, students must be legal kindergarten age through 21 years. Only students ages 3 through 9 can be identified in the Developmental Delay category. Use of the DD category is optional for the district. If the district elects to use the DD category, it will use the 3 through 9 age range and the criteria outlined in this chapter.

Professional Judgment

The evaluation team uses professional judgment in applying State Eligibility Criteria to determine eligibility of a student for special education services. In general, a student must meet all the eligibility criteria for a particular disability category. However, if a student does not meet the criteria, the evaluation team may determine that the student is eligible if:

1. the student meets the definition of a disability category even though all of the State Eligibility Criteria are not met; and
2. the disability adversely affects educational performance; and
3. the student requires special education.

The evaluation team must document the criteria used for eligibility determination using credible formal and informal data.

Adverse Effect on Educational Performance

The term "adverse effect on educational performance" is broad in scope. An adverse effect is a harmful or unfavorable influence. Educational performance includes both academic areas (reading, math, communication, etc.) and nonacademic areas (daily life activities, mobility, prevocational and vocational skills, social adaptation, self-help skills, etc.). Consideration of all facets of the student's condition that may adversely effect educational performance involves determining any harmful or unfavorable influences that the disability may have on the student's academic or daily life activities.

A. Autism

Definition: Autism is a developmental disability, generally evident before age 3, significantly affecting verbal and nonverbal communication and social interaction, and adversely affecting educational performance. A student who manifests the characteristics of autism after age 3 could be diagnosed as having autism. Other characteristics often associated with autism include, but are not limited to, engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences.

State Eligibility Criteria for Autism: An evaluation team will determine that a student is eligible for special education services as a student with autism when all of the following criteria are met:

1. An evaluation that meets the criteria of Section 5, pages 27-31 of this chapter has been conducted.
2. The student has a developmental disability, generally evident before age 3, that significantly affects verbal and nonverbal communication and social interaction.
3. The student is diagnosed as having autism by a school psychologist and a speech-language pathologist; or by a psychiatrist, a physician, or a licensed psychologist.
4. The student's condition adversely affects educational performance.
5. The student needs special education.

B. Cognitive Impairment

Definition: Cognitive impairment is defined as significantly subaverage intellectual functioning that exists concurrently with deficits in adaptive behavior. These deficits are manifested during the student's developmental period, and adversely affect the student's educational performance.

State Eligibility Criteria for Cognitive Impairment: An evaluation team will determine that a student is eligible for special education services as a student with a cognitive impairment when all of the following criteria are met:

1. An evaluation that meets the criteria of Section 5, pages 27-31 of this chapter has been conducted.

2. The student has a full-scale intelligence quotient (IQ) of less than 70, plus or minus the standard error of measurement (at the 95 percent confidence level) of the test being used. This determination is made by a qualified psychologist using an individually administered intelligence test.

3. The student exhibits significant deficits or impairments in adaptive functioning expected for his or her age in at least two of the following areas: communication, self-care, home living, social/interpersonal skills, use of community resources, self-direction, functional academic skills, work, leisure, health, or safety.

4. The student's condition adversely affects educational performance.

5. The student needs special education.

C. Deaf-Blindness

Definition: A student with deaf-blindness demonstrates both hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that the student cannot be appropriately educated with special education services designed solely for students with deafness or blindness.

State Eligibility Criteria for Deaf-Blindness: An evaluation team will determine that a student is eligible for special education services as a student with deaf-blindness when all of the following criteria are met:

1. An evaluation that meets the criteria of Section 5, pages 27-31 of this chapter has been conducted.

2. The student exhibits simultaneous hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that the student cannot be accommodated with special education services designed solely for students with deafness or blindness.

3. The student is diagnosed by an optometrist or ophthalmologist for vision loss and by an otologist, audiologist, or physician for hearing loss to make a final diagnosis as deaf-blindness.

4. The student's condition adversely affects educational performance.

5. The student needs special education.

D. Deafness

Definition: Deafness is a hearing impairment that adversely affects educational performance and is so severe that with or without amplification the student is limited in processing linguistic information through hearing.

State Eligibility Criteria for Deafness: An evaluation team will determine that a student is eligible for special education services as a student who is deaf when all of the following criteria are met:

1. An evaluation that meets the criteria of Section 5, pages 27-31 of this chapter has been conducted.

2. The student exhibits a severe hearing impairment that hinders his or her ability to process linguistic information through hearing, with or without amplification.

3. The student has been diagnosed by an otologist, audiologist, or physician as deaf.

4. The student's condition adversely affects educational performance.

5. The student needs special education.

E. Developmental Delay[1]

Definition: The term developmental delay may be used only for students ages 3 through 9 for whom a significant delay exists in one or more of the following skill areas:

1. receptive/expressive language;

2. cognitive abilities;

3. gross/fine motor functioning;

4. social/emotional development; or

5. self-help/adaptive functioning.

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[1] The category of developmental delay (DD) is optional. If the district elects to use the DD category, it will use the 3 through 9 age range and the criteria outlined here.

The category of developmental delay should not be used when the student clearly meets the eligibility criteria for another specific disability category.

Students cannot be served in special education beyond their 10th birthday unless they have been determined to be eligible as having a disability other than developmental delay.

State Eligibility Criteria for Developmental Delay: An evaluation team may determine that a student is eligible for special education services as a student with a developmental delay when all of the following criteria are met:

1. An evaluation that meets the criteria of Section 5, pages 27-31 of this chapter has been conducted.

2. The student is at least 3 years of age but less than 10 years of age.

3. The student has developmental and/or learning problems that are not primarily the result of limited English proficiency, cultural difference, environmental disadvantage, or economic disadvantage.

4. The student meets either of the following two criteria (a or b):

   a. The student functions at least 2.0 standard deviations below the mean; or has a 30 percent delay in age equivalency; or functions at less than the 3rd percentile in one or more of the following five developmental areas:

      (1) cognitive;

      (2) fine/gross motor;

      (3) speech-language that includes articulation, fluency, voice, and receptive/expressive language;

      (4) social/emotional; or

      (5) self-help/adaptive.

   b. The student functions at least 1.5 standard deviations below the mean; or has a 25 percent delay in age equivalency; or functions at less than the 7th percentile in two or more of the five developmental areas listed in "a" above.

5. The student's condition adversely affects educational performance.

6. The student needs special education.

F. Emotional Disturbance

Definition: A student with emotional disturbance has a condition exhibiting one or more of the following five behavioral or emotional characteristics over a long period of time, and to a marked degree, that adversely affects his or her educational performance. The five behavioral or emotional characteristics include:

1. an inability to learn that cannot be explained by intellectual, sensory, or health factors;
2. an inability to build or maintain satisfactory interpersonal relationships with peers and teachers;
3. inappropriate types of feelings under normal circumstances;
4. a general pervasive mood of unhappiness or depression; or
5. a tendency to develop physical symptoms or fears associated with personal or school problems.

The term *does not* include students who are socially maladjusted unless it is determined they have an emotional disturbance. The term emotional disturbance *does* include students who are diagnosed with schizophrenia.

An *Eligibility Determination Portfolio* form for students suspected of having emotional disturbance can be found in Appendix 3A, page A-39.

State Eligibility Criteria for Emotional Disturbance: An evaluation team will determine that a student is eligible for special education services as a student with emotional disturbance when all of the following criteria are met:

1. An evaluation that meets the criteria of Section 5, pages 27-31 of this chapter has been conducted.
2. The student has been documented as having an emotional condition consistent with the criteria in this chapter by one or more of the following: school psychologist, licensed psychologist, psychiatrist, physician, or certified social worker.
3. The student has been observed exhibiting one or more of the five behavioral or emotional characteristics listed in the definition of emotional disturbance.
4. The characteristic(s) has been observed:
    a. for a long period of time (at least 6 months); and

   b. by more than one knowledgeable observer; and

   c. in more than one setting; and

   d. at a level of frequency, duration, and/or intensity that is significantly different from other students' behavior in the same or similar circumstances.

5. The student's condition adversely affects educational performance in the area of academics, peer and teacher interaction, participation in class activities, and/or classroom conduct.

6. The student needs special education.

G. Health Impairment

Definition: A student classified as having a health impairment exhibits limited strength, vitality, or alertness, including heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment that is due to chronic or acute health problems. These health problems may include asthma, attention deficit disorder (ADD), attention deficit hyperactivity disorder (ADHD), diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, and sickle cell anemia to such a degree that it adversely affects the student's educational performance.

A student with ADD/ADHD may also be eligible under another category (generally learning disability or emotional disturbance) if he or she meets the criteria for that other category and needs special education and related services. All students with ADD/ADHD are not eligible to receive special education under the IDEA, just as all students who have one of the other conditions listed under health impairment are not necessarily eligible.

State Eligibility Criteria for Health Impairment: An evaluation team will determine that a student is eligible for special education services as a student with a health impairment when all of the following criteria are met:

1. An evaluation that meets the criteria of Section 5, pages 27-31 of this chapter has been conducted.

2. The student exhibits limited strength, vitality, or alertness, including heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment that is due to chronic or acute health problems.

3. The student has been diagnosed by a physician as having a health impairment. In the case of ADD/ADHD, the documentation may be provided by a school psychologist or a licensed psychologist.

4. The student's condition adversely affects educational performance.

5. The student needs special education.

H. Hearing Impairment

Definition: A hearing impairment is a permanent or fluctuating loss that adversely affects a student's educational performance but is not included under the category of deafness.

State Eligibility Criteria for Hearing Impairment: An evaluation team will determine that a student is eligible for special education services as a student with a hearing impairment when all of the following criteria are met:

1. An evaluation that meets the criteria of Section 5, pages 27-31 of this chapter has been conducted.

2. The student does not qualify as deaf.

3. The student is diagnosed by an otologist, audiologist or physician as having a hearing impairment.

4. The student's condition adversely affects educational performance.

5. The student needs special education.

I. Learning Disability

Definition: A learning disability means a specific disorder of one or more of the basic psychological processes involved in understanding, or in using spoken or written language, that may manifest itself in an impaired ability to listen, think, speak, read, write, spell, or do mathematical calculations, which adversely affects the student's educational performance. The term includes such conditions as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. The term does not include a student who has needs that are primarily the result of visual, hearing, or motor disabilities; cognitive impairment; emotional disturbance; or environmental, cultural, or economic disadvantage.

It is not necessary to find that a student has a disorder in one of the basic psychological processes, as long as the student meets the State Eligibility Criteria that follows.

For learning disability, students must be legal kindergarten age through 21 years.

State Eligibility Criteria for Learning Disability: An evaluation team will determine that a student is eligible for special education services as a student with a learning disability when all of the following criteria are met:

1. An evaluation that meets the criteria of Section 5, pages 27-31 of this chapter has been conducted.

2. A classroom observation—which is an observation of the student's academic performance in the general classroom setting by an evaluation team member other than the student's general classroom teacher—has been conducted. In the case of a student not attending school, a team member must observe the student in an environment appropriate for a student of that age. The purpose of the observation is to document any relevant behavior that affects the student's academic functioning. The observation should also document the name and title of the observer and the site, date, and duration of the observation.

3. A comparison of assessment results determines that a severe discrepancy exists between intellectual ability and achievement in one or more of the following areas:

    a. oral expression;

    b. listening comprehension;

    c. written expression;

    d. basic reading skills;

    e. reading comprehension;

    f. mathematics calculation; or

    g. mathematical reasoning.

    A severe discrepancy exists when the broad area score on an achievement test is 15 or more standard score points below a regressed **full-scale** intellectual ability score. When the broad area score is within 15 standard score points of the regressed **full-scale** intellectual ability score, but a subtest score is 15 or more points lower than the regressed **full-scale** intellectual ability score, the evaluation team may use professional judgment to determine if a severe discrepancy exists.

    The district must use the *Regressed Intelligence Quotient Scores* table found in Appendix 3B, page A-45 another appropriate regression table or procedure. A Conversion Chart, which may be useful in converting scores between different standard measures is located in appendix 3F, page A-55.

4. The severe discrepancy between ability and achievement is **not** primarily the result of:

    a. a visual, hearing, or motor impairment;

    b. a cognitive impairment;

   c. emotional disturbance; or

   d. environmental, cultural, or economic disadvantage.

5. The student's disability adversely affects educational performance.

6. The student needs special education.

Additional Requirements for Determining a Learning Disability: The evaluation team must prepare an *Eligibility Report.* In addition to the information required for all other disability categories, the report must answer each of the following questions:

1. Does the student have a learning disability?

2. What assessment procedures were used?

3. What relevant behavior was noted in the classroom observation as it relates to the student's academic functioning?

4. Are there any educationally relevant medical findings?

5. What effects on learning are from environmental, cultural, or economic disadvantage?

6. What severe discrepancies exist between intellectual ability and academic achievement?

7. Are special education services required for correction of, or compensation for, the disability?

8. Can the student's educational needs be met in the general education classroom? If not, why not? (Interventions must be attempted and documented before a referral for special education is made, and a record of results of interventions in the general education classroom must accompany the *Referral to Consider a Special Education Evaluation* form.)

This report must be dated and evaluation team members must certify in writing whether the report reflects each team member's conclusions. If the report does not reflect an individual team member's conclusions, that team member must submit a minority report on his or her conclusions.

See Appendix 10, page A-245 for a sample form to meet these additional eligibility report requirements.

J. Multiple Disabilities

Definition: Multiple disabilities are two or more co-existing impairments such as a cognitive impairment, blindness, orthopedic impairment, etc., the combination of which causes such severe educational problems that the student cannot be accommodated in special education services designed solely for one of the impairments. The term does not include deaf-blindness. Students with multiple disabilities exhibit two or more severe disabilities that are likely to be lifelong, significantly interfere with independent functioning, and may necessitate environmental modifications to enable the student to participate in school and society.

A learning disability and a speech-language impairment do not constitute a multiple disability.

State Eligibility Criteria for Multiple Disabilities: An evaluation team will determine that a student is eligible for special education services as a student with multiple disabilities when all of the following criteria are met:

1. An evaluation that meets the criteria of Section 5, pages 27-31 of this chapter has been conducted.
2. The student exhibits two or more disabilities, the combination of which causes such severe educational problems that the student cannot be accommodated by special education services designed solely for one of the disabilities.
3. The student meets State Eligibility Criteria as outlined for each disability category.
4. The student's condition adversely affects educational performance.
5. The student needs special education.

K. Orthopedic Impairment

Definition: Orthopedic impairment means a severe physical limitation that adversely affects a student's educational performance. The term includes impairments caused by congenital anomaly (clubfoot, or absence of an appendage), an impairment caused by disease (poliomyelitis, bone tuberculosis, etc.), or an impairment from other causes (cerebral palsy, amputations, and fractures or burns that cause contracture).

State Eligibility Criteria for Orthopedic Impairment: An evaluation team will determine that a student is eligible for special education services as a student with an orthopedic impairment when all of the following criteria are met:

1. An evaluation that meets the criteria of Section 5, pages 27-31 of this chapter has been conducted.

2. The student exhibits a severe orthopedic impairment. The term includes congenital anomalies, impairments caused by disease, and impairments from other causes that are so severe as to require special education services.

3. The student has documentation of the condition by a physician or other qualified professional.

4. The student's condition adversely affects educational performance.

5. The student needs special education.

L. Speech or Language Impairment: Language[1]

Definition: A language impairment exists when there is a disorder or delay in the development of comprehension and/or the uses of spoken or written language and/or other symbol systems. The impairment may involve any one or a combination of the following:

1. the form of language (morphological and syntactic systems);

2. the content of language (semantic systems); and/or

3. the function of language in communication (pragmatic systems).

A language disorder does not exist when language differences are due to nonstandard English or regional dialect or when the evaluator cannot rule out environmental, cultural, or economic disadvantage as primary factors causing the impairment.

State Eligibility Criteria for Language Impairment: An evaluation team will determine that a student is eligible for special education and/or related services as a student who has a language impairment when all of the following criteria are met:

1. An evaluation that meets the criteria of Section 5, pages 27-31 of this chapter has been conducted.

2. At least two procedures, at least one of which yields a standard score, are used to assess receptive language and/or expressive language.

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[1] A student may receive speech or language services if he or she is eligible under another disability category and needs speech or language services as a related service in order to benefit from special education.

3. The student has attained scores on a standardized measure that are 1.5 standard deviations or more below the mean, or below the 7th percentile, in either receptive or expressive language.

4. The student's disability adversely affects educational performance.

5. The student needs special education. (Speech-language therapy can be special education or a related service.)

See Appendix 3C, page A-49 for information on documenting adverse effects on educational performance for students with speech-language disorders.

M. Speech or Language Impairment: Speech[1]

The term speech impairment includes articulation/phonology disorders, voice disorders, or fluency disorders. The following eligibility criteria and minimum assessment procedures have been established for all three types of speech impairments.

M1. Articulation/Phonology Disorder

Definition: Articulation is the ability to speak distinctly and connectedly. Articulation disorders are incorrect productions of speech sounds including omissions, distortions, substitutions, and/or additions that may interfere with intelligibility. Phonology is the process used in our language that has common elements (sound patterns) which affect different sounds. Phonology disorders are errors involving phonemes, sound patterns, and the rules governing their combinations.

a. An articulation/phonology disorder exists when:

   (1) the disorder is exhibited by omissions, distortions, substitutions, or additions;

   (2) the articulation interferes with communication and calls attention to itself; and

   (3) the disorder adversely affects educational or developmental performance.

b. An articulation/phonology disorder does not exist when:

   (1) errors are temporary in nature or are due to temporary conditions such as dental changes;

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[1] A student may receive speech or language services if he or she is eligible under another disability category and needs speech or language services as a related service in order to benefit from special education.

(2) differences are due to culture, bilingualism or dialect, or from being non-English speaking; or

(3) there are delays in developing the ability to articulate only the most difficult blends of sound or consonants within the broad range for the student's age.

State Eligibility Criteria for Articulation/Phonology Disorder: An evaluation team will determine that a student is eligible for special education and/or related services as a student who has an articulation/phonology disorder (speech impairment) when all of the following criteria are met:

1. An evaluation that meets the criteria of Section 5, pages 27-31 of this chapter has been conducted.
2. At least two procedures are used to assess the student, one of which yields a standard score.
3. The student must have a score that is at least 1.5 standard deviations below the mean, or below the 7th percentile, on a standardized articulation/phonological assessment, or the speech impairment is judged as moderate on the standardized measure for students ages 3 through 21 years.
4. Speech intelligibility is determined to be moderately or severely impaired.
5. The student's disability adversely affects educational performance.
6. The student needs special education. (Speech-language therapy can be special education or a related service.)

M2. Fluency Disorder

Definition: A fluency disorder consists of stoppages in the flow of speech that are abnormally frequent and/or abnormally long. The stoppages usually take the form of repetitions of sounds, syllables, or single syllable words; prolongations of sounds; or blockages of airflow and/or voicing in speech.

A fluency disorder exists when an abnormal rate of speaking, speech, interruptions, repetitions, prolongations, blockages of airflow and/or voicing interferes with effective communication.

A fluency disorder does not exist when developmental dysfluencies are part of normal speech development and do not interfere with educational or developmental performance.

State Eligibility Criteria for Fluency Disorder: An evaluation team will determine that an individual is eligible for special education and/or related services as a student who has a fluency disorder (speech impairment) when all of the following criteria are met:

1. An evaluation that meets the criteria of Section 5, pages 27-31 of this chapter has been conducted.
2. The student has a fluency rating of at least moderate on the *Fluency Communication Rating Scale* for students age 3 through 21 years.
3. The student's disability adversely affects educational performance.
4. The student needs special education. (Speech-language therapy can be special education or a related service.)

See Appendix 3C, page A-49 for information on documenting adverse effects on educational performance for students with speech-language disorders. See Appendix 3D, page A-51 for the *Fluency Communication Rating Scale*.

M3. Voice Disorder

Definition: Voice disorders are the absence or abnormal production of voice quality, pitch, intensity, or resonance. Voice disorders may be the result of a functional or an organic condition.

A student who has a suspected laryngeal-based voice disorder and has not been evaluated by an ear, nose, and throat physician (ENT) (otorhinolaryngologist) may not receive voice therapy services from a speech-language pathologist.

a. A voice disorder exists when the vocal characteristics of quality, pitch, intensity, or resonance:
    (1) interfere with communication;
    (2) draw unfavorable attention to the speaker;
    (3) adversely affect the speaker or listener; or
    (4) are inappropriate to the age and gender of the speaker.
b. A voice disorder does not exist when the vocal characteristics of quality, pitch, intensity, or resonance:

(1) are the result of temporary physical factors such as allergies, colds, or abnormal tonsils or adenoids;

(2) are the result of regional dialectic or cultural differences or economic disadvantage; or

(3) do not interfere with educational or developmental performance.

State Eligibility Criteria for Voice Disorder: An evaluation team will determine that a student is eligible for special education and/or related services as a student who has a voice disorder (speech impairment) when all of the following criteria are met:

1. An evaluation that meets the criteria of Section 5, pages 27-31 of this chapter has been conducted.

2. The student has a voice production rating of at least moderate on the Voice Rating Scale for students ages 3 through 21 years.

3. A physician's statement documents that voice therapy is not contraindicated.

4. The student's disability adversely affects educational performance.

5. The student needs special education. (Speech-language therapy can be special education or a related service.)

See Appendix 3C, page A-49 for information on documenting adverse effects on educational performance for students with speech-language disorders. See Appendix 3E, page A-53 for the *Voice Rating Scale*.

N. Traumatic Brain Injury

Definition: Traumatic brain injury refers to an acquired injury to the brain caused by an external physical force resulting in a total or partial functional disability or psychosocial impairment, or both, that adversely affects educational performance. The term applies to open or closed head injuries resulting in impairments in one or more areas such as cognition, language, memory, attention, reasoning, abstract thinking, judgment, problem solving, sensory, perceptual and motor abilities, psychosocial behavior, physical functions, information processing, and speech. The term does not apply to congenital or degenerative brain injuries or to brain injuries induced by birth trauma.

State Eligibility Criteria for Traumatic Brain Injury: An evaluation team will determine that a student is eligible for special education services as a student who has a traumatic brain injury when all of the following criteria are met:

1. An evaluation that meets the criteria of Section 5, pages 27-31 of this chapter has been conducted.

2. The student has an acquired injury to the brain caused by an external physical force resulting in a total or partial functional disability or psychosocial impairment, or both.

3. The student has documentation of diagnosis by a licensed physician as having a traumatic brain injury.

4. The student's condition adversely affects educational performance.

5. The student needs special education.

O. Visual Impairment Including Blindness

Definition: Visual impairment refers to an impairment in vision that, even with correction, adversely affects a student's educational performance. The term includes both partial sight and blindness. Partial sight refers to the ability to use vision as one channel of learning if educational materials are adapted. Blindness refers to the prohibition of vision as a channel of learning, regardless of the adaptation of materials.

State Eligibility Criteria for Visual Impairment: An evaluation team will determine that a student is eligible for special education services as a student with a visual impairment when all of the following criteria are met:

1. An evaluation that meets the criteria of Section 5, pages 27-31 of this chapter has been conducted.

2. The student has documentation of a visual impairment, not primarily perceptual in nature, resulting in measured acuity of 20/70 or poorer in the better eye with correction, or a visual field restriction of 20 degrees as determined by an optometrist or ophthalmologist.

3. The student's physical eye condition, even with correction, adversely affects educational performance.

4. The student needs special education.

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INDIVIDUALIZED EDUCATION PROGRAMS

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Legal Citations

Abbreviations Used:
Code of Federal Regulations (C.F.R.)
Education for the Handicapped Law Report (EHLR)
Idaho Administrative Procedures Act (IDAPA)

Introduction
34 C.F.R. § 300.26
34 C.F.R. § 300.347
34 C.F.R. § 300.345

Section 1. IEP Team
A. 34 C.F.R. § 300.344
34 C.F.R. § 300.20
B. 34 C.F.R. § 300.346(d)
34 C.F.R. § 300.342(b)

Section 2. IEP Procedural Requirements
A. 34 C.F.R. § 300.347
34 C.F.R. § 300.501
34 C.F.R. § 300.552(b)
B. 34 C.F.R. § 300.342
34 C.F.R. § 300.343
34 C.F.R. § 300.348
34 C.F.R. § 300.346(a)(2)(i)
34 C.F.R. § 300.520(b-c)
34 C.F.R. § 300.523
IDAPA 08.02.03.109.04.a.
C. 34 C.F.R. § 300.345
34 C.F.R. § 300.344(a)(7)
34 C.F.R. § 300.504
D. 34 C.F.R. § 300.121
34 C.F.R. § 300.503
IDAPA 08.02.03.109.04.b.
E. 34 C.F.R. § 300.550
34 C.F.R. § 300.551
34 C.F.R. § 300.552
34 C.F.R. § 300.553
34 C.F.R. § 300.347(a)(3-4)
IDAPA 08.02.03.109.04.c.
F. 34 C.F.R. § 300.500(b)(1)
34 C.F.R. § 300.505(a)(1)(ii)
G. 34 C.F.R. § 300.503
34 C.F.R. § 300345(f)
H. 34 C.F.R. § 300.505
34 C.F.R. § 300.507
34 C.F.R. § 300.510
34 C.F.R. § 514
IDAPA 08.02.03.109.05.a.
34 C.F.R. § 300.506

Section 3. IEP Content
34 C.F.R. §300.343(b)
34 C.F.R. §300.342
34 C.F.R. §300.346
34 C.F.R. §300.300(a)(3)(ii)
IDAPA 08.02.03.109.04.
B. 34 C.F.R. §300.344
IDAPA 08.02.03.109.04.b.
C. 34 C.F.R. § 300.437(a)(1-2)
D. 34 C.F.R. § 300.347(a)(3)
34 C.F.R. § 300.26
34 C.F.R. § 300.24
34 C.F.R. § 300.346
34 C.F.R. § 300.347(a)(6)
E. 34 C.F.R. § 300.347(a)(4)
IDAPA 08.02.03.109.04.c.
F. 34 C.F.R. § 300.347(a)(5)
IDAPA 08.02.03.111.04.
G. 34 C.F.R. § 300.347(a)(7)
H. 34 C.F.R. § 300.347(b)
34 C.F.R. § 300.347(c)
IDAPA 08.02.03.109.01.a.
Idaho Code § 33-2002(4)
I. 34 C.F.R. § 300.26

34 C.F.R. § 300.24
34 C.F.R. § 300.7
34 C.F.R. § 300.28
34 C.F.R. § 300.347(a)(3)
34 C.F.R. § 300.342(b)(ii)
34 C.F.R. § 300.5
34 C.F.R. § 300.6
34 C.F.R. § 300.346(a)(v)
IDAPA 08.02.03.109.06.
34 C.F.R. § 300.309
17 EHLR 170 (10th Cir.1990)
34 C.F.R. § 300.24(b)(15)
34 C.F.R. § 300.346(a)

Section 4. IEP Reviews

A. 34 C.F.R. § 300.343
34 C.F.R. § 300.533
34 C.F.R. § 300.534
IDAPA 08.02.03.109.04.
B. IDAPA 08.02.03.109.04.a.

Section 5. IEPs for Transfer Students

A. IDAPA 08.02.03.109.04.e.
B. IDAPA 08.02.03.109.04.f.

Section 6. IEPs for Children from Infant/Toddler Programs

A. 34 C.F.R. § 300.125(c)
Idaho Code § 16-103(12)
B. 34 C.F.R. § 300.342(c)
IDAPA 08.02.03.109.04.d.
C. 34 C.F.R. § 300.505
34 C.F.R. § 300.503
34 C.F.R. § 300.533(c)

Chapter 4
INDIVIDUALIZED EDUCATION PROGRAMS

Special education is specially designed instruction or speech–language therapy to meet the unique needs of a student with a disability; it includes instruction in the classroom, home, hospitals, institutions, and other settings; instruction in physical education; and speech–language therapy. The definition also includes transition services, assistive technology services, travel training, and vocational education. The definition of special education is particularly important since a student does not have a disability under the Individuals with Disabilities Education Act (IDEA) unless he or she *needs* special education.

The need for special education is documented in each student's individualized education program (IEP). The IEP is the heart of the IDEA. It is a written statement for each student with a disability that serves as a communication vehicle between a parent/adult student and the district. It is the product of collaboration among a parent/adult student and educators who, through full and equal participation, identify the unique needs of a student with a disability and plan the special education services to meet those needs. It contains statements of goals and benchmarks/short-term objectives (hereafter objectives) to monitor and measure the effectiveness of the services. The IEP also serves as a commitment by the district to provide the resources outlined in the IEP.

This chapter discusses the required participants of the IEP team, the procedural requirements for developing the IEP, and required IEP components. It also discusses placement into special education services, IEP review requirements and transfer of students from another district or the Idaho Infant/Toddler Program.

Section 1. IEP Team

The evaluation team is responsible for deciding whether to conduct an evaluation and determining whether a student has a disability that requires special education and related services. If the evaluation team determines that the student requires special education, it becomes the responsibility of the IEP team to develop the IEP, determine placement, and subsequently, review and revise the IEP and placement at least annually. The district must ensure that the IEP team includes the following members:

A. IEP Team Members and Roles

Role	Description
Parent of the student *or* Adult Student if rights have transferred	The term "parent" refers to a natural or adoptive parent, a legal guardian, a person acting as a parent, or a surrogate parent who has been appointed by the district. The term "acting as a parent" includes persons such as a grandparent or stepparent with whom the student lives as well as persons who are legally responsible for a student's welfare. The term does not include state agency personnel if the student is a ward of the state. An "adult student" is a student with a disability 18 years of age or older to whom special education rights have transferred under the IDEA and Idaho Code. See Chapter 7, Section 1B, page 94 for more information. In this case, the parent may attend as an individual who has knowledge or special expertise regarding the student.
District Representative	The district representative must be qualified to provide or supervise the provision of special education to meet the unique needs of students with disabilities. The representative must be knowledgeable about the general education curriculum and about the availability of resources in the district. He or she should be able to commit resources to ensure that whatever services are set out in the IEP will be provided. The district representative is either (1) the building principal or (2) an individual who meets the criteria of a district representative and is designated by a district or building administrator to fill that role. The district representative must participate in the IEP meeting.
Special Education Teacher—at least one *or* Service Provider—at least one	This individual will generally be the student's special education teacher who is responsible for implementing the student's IEP. In the case of a student receiving services from a speech–language pathologist, but not a special education teacher, it would be more appropriate for the speech–language pathologist to fill this role on the IEP team.

General Education Teacher—at least one (as appropriate)	A general education teacher of the student is required to participate in developing the IEP if a student is, or may be, participating in the general education environment. For preschool-age students, the general education teacher may be the kindergarten teacher or another appropriate designee. Other designees may include a care provider, Head Start teacher or community preschool teacher.
Individual who can interpret evaluation results and implications	This person may be someone who participated in the evaluation of the student. He or she must be able to explain the results, the instructional implications, and the recommendations of the evaluation. This person may also fill the role of district representative, special education teacher or general education teacher.
Student	A secondary student, beginning at age 14 years, must be invited by the district to attend any IEP meeting at which transition is to be discussed. However, any student should be invited to participate in an IEP meeting when appropriate.
Representative of a Private School (if applicable)	If a student is enrolled at a private school, the district must ensure that a representative of the private school is invited to the meeting. If the representative cannot attend, the district must use other methods to ensure participation by the private school, including individual or conference telephone calls.
Representative of Transition Agency(s)	If transition services are being discussed, a representative of any public agency that is likely to be responsible for providing or paying for transition services must be invited. If the representative does not attend, steps must be taken to obtain his or her participation in transition planning.
Other	At the discretion of the parent/adult student or the district, other individuals who have knowledge or special expertise regarding the student, including related service personnel, may be included as team members. The determination of having knowledge and special expertise regarding the student will be made by the parent/adult student or district person who invited the individual to be a member of the IEP team.

B. Clarification of General Educator's Role in IEP Development

If a student is participating in the general education environment, at least one of the student's teachers who is responsible for implementing any portion of the IEP must participate in developing the IEP. If the student has more than one general education teacher, the district can designate which teacher or teachers will serve as IEP team members, taking into account the best interest of the student. However, input should be sought from all of the student's general education teachers who do not attend the IEP team meeting. Depending upon the student's needs and the purpose of the specific IEP team meeting, the general education teacher need not participate in all decisions, or be present throughout the entire meeting, or attend every meeting. However, the general education teacher must be present and participate in the development, review, and revision of the IEP including:

1. discussion of the student's involvement and progress in the general education curriculum;

2. determination of appropriate positive behavior interventions and strategies for the student; and

3. determination of supplementary aids and services, program modifications, and supports for school personnel.

Each general education teacher who is responsible for implementing any portion of the IEP must have access to the IEP and be informed of his or her responsibilities. This includes being informed of any specific accommodations, modifications, and supports that must be provided to the student in the general classroom to ensure that the IEP is implemented appropriately.

Section 2. IEP Procedural Requirements

The IEP process begins with the evaluation team's determination of eligibility of a student with a disability who needs an IEP. Upon reviewing the results of the most recent evaluation, the IEP team summarizes the information to describe the student's present levels of performance and how the student's disability affects involvement and progress in the general education curriculum or appropriate activities. Measurable goals and benchmarks/objectives are written to assess the student's progress, and the appropriateness of the services to be provided over the next year. Appropriate services and accommodations are discussed in order to plan a program that will meet the needs of the student. Finally, placement decisions are based on the IEP.

A. Purpose of Meeting

The primary purpose of an IEP team meeting is to design an IEP that will meet the unique needs of a student with a disability. The IEP team plans the special education and related services calculated to enable the student to receive educational benefits. The parent and adult student must be invited to the meeting and be well-enough informed regarding their roles as team members to participate meaningfully. The parent, adult student and district personnel should come prepared to discuss specific information about the student's needs and the type of services to be provided to address individual needs. See the sample invitation to a meeting in Appendix 10, page A-247.

It is recommended that the meeting be planned and conducted in such a way that it is an open discussion which allows participants to identify and consider all the relevant needs of the student. Placement decisions must be considered *after* the IEP is developed. Placement is based on the IEP services and accommodation needs and may not be the determining factor in developing the IEP contents.

A meeting does not include informal or unscheduled conversations involving district personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of service provisions if those issues are not addressed in the student's IEP. A meeting also does not include preparatory activities that district personnel engage in to develop a proposal or a response to a parent/adult student proposal that will be discussed at a later meeting.

B. When IEP Team Meetings Are Needed

An IEP meeting must be held for one or more of the following reasons:

1. to develop an IEP within 30 calendar days of a determination of eligibility;
2. to review the IEP periodically, but at least annually, on or before the date the previous IEP was developed. An IEP must be in effect at the beginning of each school year;
3. when another agency fails to deliver transition services outlined in the IEP;
4. to consider and/or make changes in the IEP or placement;
5. at the reasonable request of any member of the IEP team;
6. to review behavior intervention strategies and/or develop a behavior plan as part of the IEP; or
7. to address IDEA discipline requirements (see Chapter 7, Section 13, page 124).

C. Invitation to IEP Team Meetings

The district must do the following:

1. Schedule the meeting at a mutually agreed upon place and time.

2. Invite the parent and adult student to the meeting early enough to ensure they can attend. The district must keep a record of this invitation. The invitation must include the following: the purpose, time, and location of the meeting; who will attend the meeting; and information regarding the parent's/adult student's right to bring other people to the meeting. The invitation should clarify the parent's and adult student's roles on the team and request that they come prepared to discuss the unique needs and characteristics of the student, the types of services that may be needed, and the goals that would monitor the success of the services.

3. Invite the student, if appropriate or required, to attend and participate in his or her IEP team meeting. If a purpose of the meeting is to consider transition, and the student does not attend, other steps to ensure that the student's preferences and interests are considered will be taken.

4. The invitation may be either written or oral. In either case, the district must document that all the required components noted in item 2 above were included in the invitation. In addition, the parent and adult student must be provided with a written copy of the *Special Education Rights Statement* when they are invited to any IEP meeting.

5. When one of the purposes of the IEP team meeting is to consider transition services, the invitation must also:

   a. indicate this purpose;

   b. indicate that the district will invite the student; and

   c. identify any other agency that will be invited to send a representative.

6. The district must take appropriate action to ensure that a parent and adult student understand the proceedings at an IEP team meeting, including arranging for an interpreter for a parent or adult student who is hearing impaired or whose native language is other than English.

7. The IEP team may meet without the parent/adult student if he or she cannot attend the meeting. However, the district must document its attempts to arrange a mutually agreed upon time and place for the meeting. Documentation could include records of telephone calls or conversations, copies of correspondence sent to the parent and any responses received, and detailed records of any visits made to the parent. If a meeting is held without the parent/adult student, the district must use alternative methods to gain his or her participation in the development of the IEP.

D. Team Decision Making

The IEP meeting serves as a communication vehicle between the parent/adult student and school personnel that enables them, as equal participants, to make joint, informed decisions regarding the student's special education services. All members of the IEP team are expected to work toward consensus regarding the services outlined in the student's IEP to ensure that he or she receives a free appropriate public education (FAPE). Consensus means that all members have a collective opinion and general agreement regarding what is written. If there is a lack of consensus between the parent/adult student and other IEP team members regarding an IEP decision, then school personnel on the IEP team should seek consensus and make the decision. If there is a lack of consensus among school personnel, then the district representative on the IEP team must make the decision. Any team member who does not agree with the IEP team decision regarding the student's educational program may place a minority report in the student's file. A minority report does not prevent implementation of the IEP team decision.

The district will follow the procedures in subsection H, page 62 of this section, "Parent/Adult Student Objection to the IEP," if necessary.

E. Placement Decisions

Placement in a specific special education program on the continuum of least restrictive environments (LRE) is determined after the support system of the student is designed. Removal from the general education environment occurs only when the nature or severity of the disability is such that education in general classes with the use of supplementary aids and services cannot be achieved satisfactorily. A student with a disability is not to be removed from education in age-appropriate general education classrooms solely because of needed modifications in the general education curriculum. In addition, a student with a disability must be educated with students who are nondisabled to the maximum extent appropriate. The district is required to provide an explanation of the extent, if any, to which the student will not participate in the general education classroom, the general education curriculum, or extracurricular or other nonacademic activities. See Chapter 5 for more information on placement in the LRE.

F. Consent for Initial Placement

Consent from the parent/adult student must be obtained prior to the initial provision of special education and related services to a student with a disability. Consent means that the parent/adult student understands and agrees in writing to the carrying out of the activity for which his or her consent is sought.

G. Following the Meeting

Following the IEP team meeting, a copy of the IEP and written notice must be given to the parent and adult student. IEPs and written notice should also be given to the parent and adult student whenever a change is made to the IEP or upon request. See Chapter 7 for more information on written notice. See Appendix 10, pages A-249 through A-257 for a sample IEP form that incorporates the components of written notice.

H. Parent/Adult Student Objection to the IEP

There may be circumstances when a parent/adult student objects to the IEP team's decisions regarding initial placement in special education or changes in subsequent IEPs. The district will use the following procedures in these situations:

1. Parent/Adult Student Objection to the Initial IEP

   Consent is required for initial placement in special education. If the parent/adult student refuses to give consent for an IEP for initial placement, the student may not be placed or served. However, the district may request a due process hearing regarding the initial placement. The student must "stay put" in his or her current general education placement until the disagreement is resolved, unless an interim placement can be agreed to by the district and the parent/adult student. If the hearing officer decides that services are appropriate and the parent/adult student does not appeal, the district may place the student.

2. Parent/Adult Student Objection to Changes in Subsequent IEPs

   If the parent/adult student disagrees with an IEP change or placement change proposed by the district, he or she may file a written objection to all or parts of the proposed change. If the parent/adult student files a written objection that is postmarked or hand delivered within 10 days of the date he or she receives written notice from the district of the proposed change, the changes to which the parent/adult student objects cannot be implemented. If the changes have already been implemented, implementation of that change must cease. The district and parent/adult student may use informal methods such as additional IEP team meetings or voluntary mediation to resolve the disagreement. If these informal attempts fail, the district may request a due process hearing to obtain a hearing officer's decision regarding the proposed change.

If the parent/adult student files a written objection to an IEP change or placement change proposed by the district any time *after* 10 days of receiving written notice, the student must "stay put" in the placement described in the disputed IEP, and that IEP is implemented as written until the disagreement is resolved.

The written objection cannot be used to prevent the district from placing a student in an interim alternative educational setting in accordance with IDEA procedures for discipline of a student.

Section 3. IEP Content

An IEP must be developed within 30 days after the evaluation team makes a determination of eligibility. However, the total time between the district's receipt of consent to evaluate and implementation of the IEP must not exceed 60 days, excluding periods when regular school is not in session for 5 or more consecutive days. The IEP must be implemented as soon as possible after it has been developed. An IEP must be in effect at the beginning of each school year and before special education and related services are provided to a student. Although it is permissible to draft IEPs in advance, it should be noted that IEPs cannot be fully developed prior to an IEP team meeting. Best practice guidelines for the development of an IEP are found in Appendix 4A, page A-59.

IEPs are individually developed according to all the provisions and requirements in the IDEA. The services and placement needed by each student with a disability must be based on the student's unique needs and not on the student's disability. The IEP team will consider the strengths of the student and the concerns of the parent/adult student for enhancing the education of the student. In addition, the IEP team will consider the results of the initial or most recent evaluation of the student and, when appropriate, the results of the student's performance on any general statewide or districtwide assessments. All IEPs must include the following components:

A. General Demographic Components for All IEPs

All IEPs must include the following general demographic components: the student's name as it appears in school records, native language, birth date, social security or other identification number (for state reporting or Medicaid purposes only), names of parents, address, phone number, school, grade, and date of the IEP meeting. Other demographic information should be on file in the IEP form found in Appendix 10, page A-249.

B. Documentation of Participants

The district must ensure the participation of individuals at the IEP meeting. The district can obtain signatures of the IEP team participants or use other appropriate methods to indicate participation. Individuals who did not actually participate in the meeting will not sign the IEP.

C. Present Levels of Educational Performance, Goals, and Benchmarks/Objectives

1. Statements of present levels of educational performance in an area of need include how a school-age student's disability affects his or her involvement and progress in the general education curriculum, i.e., the same curriculum used for nondisabled students. For preschool students, present levels of performance describe how the disability affects the student's participation in appropriate activities. Although the content of present levels of performance statements are different for each student, each statement must:

   a. be written in objective, measurable terms to the extent possible (assessment data would be a good source, but statements should be written in easy-to-understand, non-technical language);

   b. show a direct relationship with the other components of the IEP, including special educations services, annual goals, and benchmarks/objectives; and

   c. provide a starting point for goal and benchmark/objective development.

2. Measurable annual goals must be related to the needs described in the present levels of performance statements.

   a. A goal is a measurable statement that describes what a student is reasonably expected to accomplish from the special education program within the time period covered by the IEP, generally one year.

   b. Goals are written to enable the student to be involved in and progress in the general education curriculum, and to address other educational needs that result from the disability.

   c. A goal should include the behavior (what), the performance criteria (how well it will be done), and the evaluation procedure (measured by what).

3. For each goal there must be at least two benchmarks/objectives. Benchmarks/objectives must include a statement of how far the student is expected to progress toward the annual goal and by when.

D. Statements of Special Education and Related Services

Each student's IEP must describe the special education and related services that will be provided to or on behalf of the student. Special education is defined as specially designed instruction or speech–language therapy to meet the unique needs of the student with a disability including instruction in the classroom, home, hospitals, institutions, and other settings. Specially designed instruction means adapting the content, methodology or delivery of instruction as appropriate to (1) address the unique needs of the student that result from his or her disability and (2) ensure access to the general education curriculum so that the student can meet the educational standards that apply to all students. Related services are described in "Other IEP Considerations" found in subsection I, item 1, page 68 of this section.

Services may also include general education curriculum modifications, extended school year services, transportation, transition services, assistive technology services, and travel training. Services must be provided whether or not the district currently has these services in place. The description of services in the IEP must:

1. Identify the program accommodations and supplementary aids to be provided to the student in the areas of need. These may include, but are not limited to general education modifications, positive behavior intervention plans, and assistive technology devices.

2. List the specific services that will meet the unique needs of the student, allowing him or her to advance appropriately toward attaining the annual goals:

    a. to be involved and progress in the general education curriculum;

    b. to participate in extracurricular and other nonacademic activities; and

    c. to be educated and participate with other students with disabilities and nondisabled students.

3. State the projected starting date and expected duration of the services and modifications.

4. List the anticipated time per session and frequency of sessions per week or month. The amount of service may be stated as a range if it meets the unique needs of the student.

5. State the location where services and modifications will be provided.

E. LRE Explanation

Explain the extent, if any, to which the student will *not* participate in the general education classroom, the general education curriculum, or extracurricular or other nonacademic activities. For an explanation of LRE requirements see Chapter 5.

F. Statewide or Districtwide Achievement Testing

Students with disabilities are to be included in statewide and districtwide assessment programs. Appropriate accommodations must be provided when necessary. Students who meet the state-developed alternate assessment eligibility guidelines may be exempted from the regular statewide or districtwide testing and must participate in the alternate assessment. The IEP team will decide whether the student will participate in regular assessments with or without accommodations or in an alternate assessment as described below.

1. Regular Assessment without Accommodations

    The IEP team determines and documents in the IEP that a student with disabilities can adequately demonstrate his or her knowledge, abilities, or skills on statewide or districtwide assessments without accommodations.

2. Regular Assessment with Appropriate Accommodations

Appropriate accommodations for students with disabilities will be based on the individual needs of each student. These decisions will be made by the IEP team and recorded in the IEP. Accommodations should facilitate an accurate demonstration of what the student knows or can do. They should not provide the student with an unfair advantage or interfere with the validity of the test nor should they change the underlying skills that are being measured by the test. Accommodations must be the same or nearly the same as those used by the student in completing classroom instruction and assessment activities. The accommodations must be necessary for enabling the student to demonstrate knowledge, ability, skill, or mastery. Allowable accommodations are listed in Appendix 4D, page A-89.

3. Alternate Assessment

The IEP team must use the following criteria to determine if a student will participate in an alternate assessment and not in regular statewide or districtwide assessments:

a. The student's demonstrated cognitive ability and adaptive behavior prevent completion of the general academic curriculum even with program modifications;

b. The student's course of study is primarily functional-skill and living-skill oriented; and

c. The student is unable to acquire, maintain, or generalize skills and demonstrate performance of those skills without intensive frequent individualized instruction.

Students are *not* to be included in the alternate assessment for any of the following reasons:

a. The only determining factor is that the student has an IEP;

b. The student is academically behind because of excessive absences or lack of instruction; or

c. The student is unable to complete the general academic curriculum because of socioeconomic or cultural differences.

Refer to Appendix 4D, page A-89 for more information.

G. Progress Toward Goals

The IEP must include a statement of how the parent/adult student will be informed of the student's progress toward the annual goals, including the extent to which that progress is sufficient to enable the student to achieve the goals by the end of the IEP time period. The parent/adult student must be informed at least as often as the district informs parents of nondisabled students of their progress.

H. Additional Transition Components for Secondary-Level IEPs

Secondary transition services are defined as a coordinated set of activities for a student with a disability, designed within an outcome-oriented process, that promotes movement from school to postschool activities. These activities are based on the individual student's needs, taking into account the student's preferences and interests. The activities include instruction, community experiences, development of employment and other postschool adult-living objectives and, if appropriate, acquisition of daily living skills and a functional vocational evaluation. The following components are required for all secondary students' IEPs:

1. For each student beginning at age 14, or earlier, the IEP will include a statement of the transition service needs of the student under the applicable components of the IEP that focus on the student's course of study. This may include participation in courses required for graduation, driver's education or vocational education. The statement must be developed at the first IEP meeting after the student turns 14 years old, or earlier if determined appropriate by the IEP team.

2. For each student beginning at age 16, or earlier, the IEP will include a statement of the needed transition services including, when appropriate, a statement of the interagency responsibilities or any needed linkages. The statement must be developed at the first IEP meeting after the student turns 16 years old, or earlier if determined appropriate by the IEP team. If an agency agrees to provide a service but fails to do so, the district must implement alternative strategies to meet the student's needs or convene a meeting to revise the IEP. Further, if the agency fails to provide or pay for the special education or related service, the district must, without delay, provide or pay for the service and then may claim reimbursement from that agency.

3. Not later than the student's 17th birthday, the IEP must include a statement that the student has been informed whether or not special education rights will transfer to the student on his or her 18th birthday. Special education rights will transfer from the parent to the student, when the student turns 18 years old, unless the IEP team determines that the student is unable to provide informed consent with respect to his or her special education program or the parent has obtained legal guardianship. For more information on the transfer of rights, see Chapter 7, Section 1B, page 94 and Appendix 7A, page A-113.

For more information on secondary transition see Appendix 4B, page A-69.

I. Other IEP Considerations

Based on the unique needs of each student, the IEP team should consider any of the following services that may be appropriate for the student and should document them on the IEP accordingly:

1. Related Services

   "Related services" refer to transportation and such developmental, corrective, and other supportive services required to assist a student with a disability to benefit from special education. These services include, but are not limited to, speech and language therapy, audiology, psychological services, physical and occupational therapy, therapeutic recreation, early identification and assessment of students' disabilities, rehabilitation counseling services, orientation and mobility services, medical services for diagnostic or evaluative purposes, school health services, social work services in school, and parent counseling and training. Parent counseling and training includes helping a parent (a) understand child development and the special needs of his or her child and (b) acquire skills to support the implementation of his or her child's IEP. This list of related services is not exhaustive and may include other developmental, corrective, or supportive services, e.g., artistic and cultural programs; art, music, and dance therapy; transition services; or assistive technology.

   Although services may be of benefit to a student with a disability, Congress has made it clear that all of the services listed above may not be required for each individual student. Related services are the responsibility of the district only if they are required to assist the student to benefit from special education. Further, if a student does not *need* special education, he or she is not entitled to related services and is not eligible as a student with a disability under the IDEA.

2. Supplementary Aids and Services

   "Supplementary aids and services" means aids, services, and other supports that are provided in general education classes or other education-related settings to enable students with disabilities to be educated with nondisabled students to the maximum extent appropriate, in accordance with LRE requirements.

   The determination of which supplementary aids and services are appropriate for a particular student must be made on an individual basis. Supplementary aids and services may include the following: assistance of an itinerant special education teacher, service provider, or paraprofessional; support or training for the general educator; use of resource services; provision of note takers; supports for extracurricular or other nonacademic activities; or supports for participation in statewide or districtwide achievement testing.

3. Modifications

Modifications, sometimes referred to as accommodations and/or adaptations, include any change that allows students with disabilities the same opportunity as nondisabled students to participate in and benefit from the educational program, activities, and services of the district. Modifications provide opportunity but do not necessarily ensure success.

Some accommodations are intended to make educational opportunities more accessible. These types may involve the setting, communication modality, equipment, and/or supplemental aids and services. Examples include Braille editions, large print, pencil grips, tape recorders, note takers, and computers with spell check.

Adaptations reflect changes in educational expectations for the student with a disability compared to nondisabled peers. These adaptations include actual changes in the general classroom curriculum or the use of an alternative or supplemental curriculum. Examples include fewer concepts to be mastered, different test questions, and material at a different reading level.

Whenever the IEP team determines that modifications are needed to ensure academic progress, they must be indicated in the IEP. Any modifications required in physical education, vocational education, and statewide or districtwide assessments must also be noted in the IEP.

Additional information on modifications and instructional interventions can be found in Appendix 2A, page A-21. Appendix 4D, page A-89 includes information on accommodations for statewide or districtwide assessments.

4. Assistive Technology Devices and/or Services

The district will ensure that assistive technology devices and/or services are made available to a student, if required, as special education, related services, or supplementary aids and services. The following points are definitions and clarifications of terms:

a. “Assistive technology device” means any item, piece of equipment, or product system—whether acquired commercially, modified, or customized—that is used to increase, maintain, or improve the functional capabilities of a student with a disability.

b. “Assistive technology service” means any service that directly assists a student with a disability in the selection, acquisition, or use of an assistive technology device. The term includes the following:

(1) an evaluation of the student's assistive technology needs, including a functional assessment in the student's customary environment;

(2) purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices;

(3) selecting, designing, fitting, customizing, adapting, applying, retaining, repairing, or replacing assistive technology devices;

(4) coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

(5) training or technical assistance for a student with a disability or, if appropriate, that student's family; and

(6) training or technical assistance for professionals, including individuals providing education or rehabilitation services, employers, or other individuals who provide services or are otherwise substantially involved in the major life functions of a student with a disability.

The district must permit the student to use school-purchased assistive technology devices at home or in other settings, if the IEP team determines that the student needs access to those devices in nonschool settings to receive FAPE. An example of this would be to complete homework. The district may hold a parent liable for the replacement or repair of an assistive technology device that is purchased or otherwise procured by the district if it is lost, stolen, or damaged because of negligence or misuse at home or in another setting outside of school time.

c. The district must ensure that the hearing aids worn by deaf and hard-of-hearing students in school are functioning properly.

5. Extended School Year Services

The district will provide extended school year (ESY) services for students with disabilities who qualify for such services. ESY programs for eligible students must meet the requirements of FAPE. The district must consider the following in the development and provision of an ESY program:

a. The term "extended school year services" means special education and related services that are provided beyond the regular school year:

(1) to a student with a disability;

(2) in accordance with the student's IEP; and

(3) at no cost to the parent/adult student.

The goal of ESY services is to assist students with disabilities with the emergence, maintenance, or generalization of specific critical IEP goals learned the year preceding the ESY. These may include goals related to self-sufficiency, behavior, socialization, communication, and academics. ESY services for special education students provide a different focus from general summer school programs.

b. ESY services must be considered under the following circumstances:

(1) Emerging Skill: Few, if any, gains are made during the regular school year. A critical skill is in the process of emerging, and the IEP team believes that with ESY services, the student would make reasonable gains.

(2) Regression-Recoupment: The student would regress to such an extent and the amount of time required to relearn critical skills or behaviors becomes so significant that he or she would be unable to benefit from his or her special education program.

(3) Self-sufficiency: An interruption in services would threaten the acquisition of critical life skills that aid in the student's ability to function as independently as possible, thereby continuing the student's reliance on caretakers or other institutionalized care.

c. ESY services must be clearly delineated in an IEP. The district can meet this requirement by amending the current IEP using an amendment form or developing a complete ESY IEP. Both require an IEP team meeting and written notice to the parent and adult student.

d. The district may not limit extended school year services to particular categories of disability or unilaterally limit the amount or duration of those services.

See Appendix 4E, page A-93 for additional information on ESY services.

6. Transportation

Transportation is a related service if special arrangements are required to assist a student with a disability to benefit from special education. This includes transporting a preschool-aged student to the site at which the district provides special education and related services to the student, if that site is different from the site at which the student receives other preschool or day-care services. The IEP team must consider how the student's disability affects the student's need for transportation, including determining whether the student's disability prevents the student from using the same transportation provided to nondisabled students, or from getting to school in the same manner as nondisabled students. Typically, transportation needs include the following:

a. travel to and from school and between schools to access a special education program;

b. travel in and around school buildings; and

c. specialized equipment such as lifts and ramps if required to provide special transportation.

7. Special Considerations

As appropriate, the IEP team will also consider the following special factors:

a. If the student's behavior impedes his or her learning or that of others, the team will consider, when appropriate, strategies such as positive behavior interventions and supports to address that behavior.

b. If the student has limited English proficiency, the IEP team will consider the language needs of the student.

c. If the student is blind or visually impaired, the IEP team will provide for instruction in Braille and the use of Braille unless it determines that Braille is not appropriate for the student. This determination can only be made after an evaluation of the student's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the student's future needs for instruction in Braille or the use of Braille).

d. The IEP team will consider the communication needs of the student. In the case of the student who is deaf or hard-of-hearing, the IEP team will consider the language needs of the student, opportunities for direct communication with peers and professional personnel in the student's language and communication mode, the student's academic level, and his or her full range of needs including opportunities for direct instruction in the student's language and communication mode.

Section 4. IEP Reviews

A. Annual Reviews

Each student's IEP must be reviewed at least annually on or before the date the previous IEP was developed. Meetings may be held any time throughout the school year as long as the IEP is reviewed annually and is in effect at the beginning of each school year. Either at or after the annual review, written notice that the new IEP changes will be implemented must be provided to the parent and adult student.

The IEP review includes the following purposes:

1. to determine whether the student's annual goals have been achieved;
2. to revise the IEP if there is any lack of expected progress toward annual goals and in the general curriculum, where appropriate;
3. to determine whether any additional assessments are necessary and address the results of those conducted;
4. to address information about the student provided to, or by, the parent/adult student;
5. to monitor the continuing eligibility of the student based on an evaluation or review of a variety of data, which may include formal or informal assessment, progress toward IEP goals and benchmarks/objectives;
6. to write a new IEP, with revised goals and benchmarks/objectives to meet the student's anticipated needs for the next year; and
7. to consider a reevaluation to determine if a student is no longer eligible and special education services should be discontinued. (District special education personnel may continue to monitor the student and consult with general educators. However, a monitored student is *not* included in the December 1 child count.)

B. Special Reviews

When changes in the IEP are required at times other than the annual review date, these changes must be made through a scheduled IEP team meeting. The district may use one of the following options:

1. Review and rewrite the entire IEP and establish a new annual review date. Provide a copy of the new IEP and written notice to the parent and adult student; or

2. Use an *IEP Amendment* form. When this option is used, the *IEP Amendment* form becomes part of the original IEP. Provide a copy of the amendment and written notice to the parent and adult student. The IEP must still be reviewed on or before the original annual review date. A sample *IEP Amendment* form can be located in Appendix 10, page A-263.

If the parent/adult student believes that the student is not progressing satisfactorily or that there is a problem with the current IEP, he or she may request an IEP team meeting. The district will grant any reasonable request for such a meeting. If the district refuses to convene an IEP meeting requested by the parent/adult student, the district must provide written notice to the parent and adult student, including an explanation of why the district has determined the meeting is unnecessary.

If any other member of the IEP team feels that the student's placement or IEP services are not appropriate, that team member may request an IEP team meeting.

Section 5. IEPs for Transfer Students

A. Transfer from an Idaho School District

When a student who is eligible for special education or related services (as indicated in a current IEP) transfers from one Idaho school district to another, the receiving district must ensure that the student receives FAPE. The sending Idaho school district should electronically transmit or overnight mail the IEP and eligibility documentation within 2 school days of the notification of transfer. The receiving district may accept and implement the IEP developed by the sending district when all of the following conditions apply:

1. A copy of the IEP is available.

2. The parent/adult student indicates he or she is satisfied with the current IEP.

3. The district determines the IEP is appropriate and can be implemented as written.

If the student's current IEP is not available, or if either the receiving district or the parent/adult student believes that it is not appropriate, the district must convene an IEP team meeting to develop a new IEP within a short time after the student enrolls. If a new IEP cannot be developed within 5 school days, or if the district wishes to reevaluate the student, an interim (short-term) IEP will be implemented pending the development of the standard IEP. The interim IEP must contain all the components of a standard IEP. If the parent/adult student and the district are unable to agree on an interim IEP and placement, the district must implement the old IEP to the extent possible until a new IEP is developed and implemented.

The district should keep the most recent 5 years of special education records, including IEPs and eligibility documentation. These records will be kept for 5 years following the transfer of the student.

B. Transfer from an Out-of-State District

If a student transfers to an Idaho district from another state, the district will request a copy of the student's most recent eligibility documentation and IEP within 2 days and determine if:

1. the student meets Idaho's State Eligibility Criteria for special education; and
2. the out-of-state IEP meets the requirements for Idaho IEP components.

Within 5 school days of receipt of the eligibility documentation and IEP, the receiving district will determine if it will adopt the existing eligibility documentation and IEP. If the district disagrees with the existing eligibility documentation or if it is not available within a reasonable period, consent for an initial assessment will be sought without undue delay. While the assessment and evaluation is in process, the district may implement an interim IEP if the parent/adult student agrees. If the parent/adult student does not agree to an interim IEP, the student will be placed in general education.

The district must keep the most recent 5 years of special education records, including IEPs and eligibility documentation. These records will be kept for 5 years following the transfer of the student.

Section 6. IEPs for Children from Infant/Toddler Programs

A. Transition Planning

The district will develop and have in effect an interagency agreement with the Department of Health and Welfare (DHW), the lead agency for the Infant/Toddler Program under Part C of the IDEA. The agreement will outline the obligations of each agency cooperating to ensure a smooth and effective transition of children assisted under Part C to early childhood special education programs (ECSE) under Part B.

In the case of a child who may be eligible for ECSE services, the district will participate in a transition planning conference with the family that is arranged by the DHW. The conference will be conducted at least 90 days (and up to 6 months at the discretion of all parties) before the child's 3rd birthday to discuss eligibility requirements under Part B of the IDEA and any services the child may receive.

In addition, the DHW has the responsibility (1) to review the child's program options for the period from the child's 3rd birthday through the remainder of the school year and (2) to establish a transition plan that includes steps to support the transition of the toddler with a disability to preschool services. The interagency agreement should outline the district's participation in this process.

B. IEP or IFSP Required

A student 3 through 5 years old, who is eligible for ECSE services, must have an IEP in place by his or her 3rd birthday. At the discretion of the district, an individualized family service plan (IFSP) may be used in place of an IEP if the child's parent is provided with a detailed explanation of the differences between an IFSP and IEP and written parental consent to use the IFSP is obtained. If an IFSP is used, it must be developed in accordance with Part C policies and procedures. The district is not required to develop an IFSP instead of an IEP. The district is required to implement only the educational components of the IFSP, if it is used. An explanation of the differences between an IEP and an IFSP is given in Appendix 4C, page A-86.

C. Consent and Notice Requirements

The district must obtain parental consent for release of information to obtain pertinent student records from non-educational agencies.

At the transition planning conference, if further individual assessments are necessary to determine the child's present levels of performance and eligibility, informed consent to evaluate is required. Otherwise, only written notice to inform the parent of the district's decision to use the current evaluation data, and not to conduct any further assessments, must be provided to the parent. The parent must also be informed of his or her right to request additional tests.

Regardless of whether a district gains consent or does not need consent to evaluate, when a child with a disability transitions from a Part C program, parental consent for initial placement in a Part B program and written notice of the proposed placement are required. Eligibility and initial placement must be documented for Part B services.

See Appendix 4C, page A-79 for more information on early childhood special education transition and interagency agreements.

Chapter 5

LEAST RESTRICTIVE ENVIRONMENT

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LEAST RESTRICTIVE ENVIRONMENT

Legal Citations

Abbreviations Used:

Code of Federal Regulations (C.F.R.)
Idaho Administrative Procedures Act (IDAPA)

Section 1. Least Restrictive Environment Procedures

34 C.F.R. § 300.347(a)(4)
34 C.F.R. § 300.550
34 C.F.R. § 300.552
34 C.F.R. § 300.551
34 C.F.R. § 300.553
34 C.F.R. § 300.306
34 C.F.R. § 300.300 (a)(3)(ii)
IDAPA 08.02.03.109.04.c.

Section 2. Array of Individualized Services

34 C.F.R. § 300.26
34 C.F.R. § 300.305
34 C.F.R. § 300.551
34 C.F.R. § 300.552
A. 34 C.F.R. § 300.551
34 C.F.R. § 300.552
B. 34 C.F.R. § 300.552
34 C.F.R. § 300.551

Chapter 5

LEAST RESTRICTIVE ENVIRONMENT

The Individuals with Disabilities Education Act (IDEA) states that, to the maximum extent appropriate, students with disabilities, including preschool students with disabilities, are to be educated with students who are not disabled. This concept is known as the least restrictive environment (LRE). The individualized education program (IEP) must contain an explanation of the extent, if any, to which the student will not participate in the general education classroom, the general education curriculum, or extracurricular or other nonacademic activities.

Section 1. Least Restrictive Environment Procedures

The IEP team must use the following guidelines to determine the LRE in which the IEP can be implemented:

1. A student with a disability is to be educated with students who are not disabled to the maximum extent appropriate, based on the IEP.
2. A student with a disability must be enrolled in the school he or she would attend if nondisabled, unless the IEP requires another arrangement. If the student cannot be educated in the neighborhood school, the student must be provided an educational program as close to the student's home as possible.
3. A student with a disability is not removed from education in age-appropriate general classrooms solely because of needed modifications in the general curriculum.
4. The setting(s) in which the IEP will be implemented must be determined after the needs, goals, and benchmarks/objectives for the student are determined.
5. The district must have an array of services or a continuum of alternative placement options available to meet the individual needs of each student.
6. Placement decisions are made individually for each student. This is done annually by the IEP team, including the parent/adult student and other persons knowledgeable about the student, the meaning of the evaluation data, and the placement options available in the district.
7. Consideration must be given to any potentially harmful effects of the placement on the student or on the quality of services.
8. A student with a disability must be allowed to participate with students without disabilities in nonacademic and extracurricular services and activities to the maximum

extent appropriate. These services and activities may include meals, recess, field trips, counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the district, referrals to agencies that provide assistance to individuals with disabilities, and employment of students by the district or assistance in making outside employment available.

9. Special classes, separate schooling, or other removal of a student with a disability from the general education classroom environment occurs only when the nature or severity of the disability is such that education in general classes—even with the use of supplementary aids and services—cannot be achieved satisfactorily.

10. The focus of the LRE decision is with *whom* the student is educated rather than *where* the student is educated. This provision includes students with disabilities placed in public or private institutions or other care facilities.

11. The district must ensure that a student with a disability has the variety of educational programs and services available to students without disabilities.

12. In considering a setting outside the general education classroom, the IEP team must recommend placement in classrooms and schools with similar age peers.

13. When a student with a disability is so disruptive in the general classroom that the education of others students is significantly impaired and the needs of the student with a disability cannot be met in that environment, the full-time general classroom placement may not be appropriate.

14. The district's reassignment of a student to another classroom or building in the district will not be construed as a change in placement as long as the IEP goals remain unchanged and the degree of interaction with nondisabled peers remains the same.

15. The services and placement needed by each student with a disability must be based on the student's unique needs and not on the student's disability.

Section 2. Array of Individualized Services

In recommending the most appropriate placement for a student with a disability, the IEP team must consider the student's needs and the continuum of services available to meet those needs. The continuum of services for school-age students is described in subsection A below. The continuum of services for preschool students is described in subsection B, page 82.

A. School-Age Students

The following types of public or private placements are listed from the least restrictive to most restrictive and represent an array of individualized services:

1. General Education with Accommodations

The student remains in the general education classroom. The teacher and/or student is supplied with special equipment and supplies, special transportation, and other supportive services. The general education teacher or general education instructional assistant conducts the program. The special education teacher or therapist works with the general education teacher or paraprofessional to implement the IEP.

2. General Education with Direct Special Education Services

The student remains in the general education classroom. A special education teacher, an itinerant specialist, a therapist, or a special education paraprofessional provides specially designed instruction in the general education classroom to a student whose needs can be met with part-time support. The instruction may be on an individual or small-group basis and is always coordinated with general education classroom activities.

3. General Educational Environment with Resource Room Support

The student receives as much of the general education classroom instruction as appropriate. Additional educational experiences are provided by a special education teacher, an itinerant specialist, or a therapist in a pull-out program designed to meet identified needs. The duration of time spent with the teacher, itinerant specialist or therapist is determined by the degree of intervention necessary to meet the student's needs. The instruction may be provided on an individual or small-group basis and is coordinated with general education classroom activities.

4. Special Education with General Education Integration

The student receives any general education classroom instruction from which he or she can benefit. Integration occurs with nondisabled peers in the general education classroom and during nonacademic and extracurricular activities. The majority of instruction is provided in a self-contained setting outside the general education classroom.

5. Special Education Day-School

The student receives all or the majority of instruction from special education personnel in a separate day-school. These experiences are supplemented by including the student in those parts of the general education school program that are appropriate.

6. Home and Hospital Instruction

   Special education and/or related services are provided at home, in a convalescent home, or in a hospital by special education personnel.

7. Institutional Services

   The student lives in a residential setting and receives all instruction in this setting from special education personnel. Involvement with nondisabled peers is provided when possible or appropriate.

B. Preschool Students

All LRE considerations apply to preschool students with disabilities who are entitled to receive a free appropriate public education (FAPE). Settings for implementing IEPs for legal kindergarten-age students are the same as for all other school-age students. Public schools that do not operate programs for nondisabled preschool student are not required to initiate those programs solely to satisfy the LRE requirements. However, the district must meet the individual needs of preschool students with disabilities in LREs by providing some alternative settings, which may include:

1. providing opportunities for participation (even part-time) of preschool students with disabilities in other preschool programs operated for preschool students without disabilities by other agencies such as Head Start;

2. placing preschool students with disabilities in private school programs for nondisabled preschool students or private preschool programs that integrate students with and without disabilities; and

3. locating classes for preschool students with disabilities in elementary schools.

Chapter 6

DISCONTINUATION OF SERVICES, GRADUATION, AND GRADING

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DISCONTINUATION OF SERVICES, GRADUATION, AND GRADING

Legal Citations

Abbreviations Used:
Code of Federal Regulations (C.F.R.)
Idaho Administrative Procedures Act (IDAPA)
Individuals with Disabilities Education Law Report (IDELR)
Office for Civil Rights (OCR)

Section 1. Discontinuation of Services
A. 34 C.F.R. § 300.533
34 C.F.R. § 300.534
34 C.F.R. § 300.503
34 C.F.R. § 300.122(a)(3)
Idaho Code § 33-201
B. Idaho Code § 33-209
C. 34 C.F.R. § 300.533
34 C.F.R. § 300.534
34 C.F.R. § 300.503

Section 2. Graduation
34 C.F.R. § 300.122(a)(3)
34 C.F.R. § 300.534(c)(2)
IDAPA 08.02.03.109.07.
Response to Runkel, 25 IDELR 387 (OCR 1996)

Section 3. Grades, Class Ranking, and Honor Roll
Response to Runkel, 25 IDELR 387 (OCR 1996)

Chapter 6

DISCONTINUATION OF SERVICES, GRADUATION,AND GRADING

Section 1 of this chapter includes IDEA requirements for discontinuing services. Sections 2 and 3 reflect nondiscriminatory policies for graduation, transcripts, grades, and honor rolls based on guidance from the Office for Civil Rights.

Section 1. Discontinuation of Services

A. Students Who Are No Longer Entitled to Services

The district will follow appropriate procedures to discontinue special education services to students who are no longer entitled to those services.

1. Student Is No Longer Eligible

   If it is suspected that a student no longer meets the eligibility criteria for the Individuals with Disabilities Education Act (IDEA), the evaluation team will conduct a reevaluation and arrange to have additional assessments conducted if necessary. If the student is not eligible, the district will provide the parent and adult student with written notice of this decision prior to discontinuing special education services.

2. Student Receives a Regular High School Diploma

   The district's obligation to provide special education services ends when the student meets the district requirements that apply to all students for receipt of a regular high school diploma. Although this is considered a change of placement, a reevaluation is not required. Therefore, the district will provide the parent and adult student with written notice prior to graduation and the discontinuation of special education services. See Section 2, page 86 of this chapter for more information.

3. Student Reaches Maximum Age

   For students who have not yet graduated from high school by meeting requirements comparable to regular graduation requirements, the district's obligation to provide special education services ends at the completion of the semester in which the student turns 21 years of age. This is also considered a change of placement that does not require a reevaluation. If a student is turning 21, the district will provide the parent and adult student with written notice prior to discontinuing special education services.

B. Change in District Obligation to Provide Services

Under certain circumstances, a student may continue to be eligible for special education services, but the district's obligation to provide services changes.

1. Transfer to Another District

   When a student moves out of the district, the district will forward the student's special education records electronically or by overnight mail within 2 school days of the request from the new district. The records must include, at least, the student's most recent IEP and eligibility documentation. The sending district will retain copies or originals of the most recent 5 years of records, including IEPs and eligibility documentation. During an audit, child count verification or monitoring, this documentation may be needed to demonstrate that the student was eligible for and received special education services from the district. See Appendix 7C, page A-129 for additional information on student records.

2. Enrollment in Private School or Home School

   When a parent withdraws a student from public school and enrolls him or her in a private school or home school, the district's responsibilities vary depending on the circumstances. See Chapter 8, Section 4, page 139 for more information.

3. Drop Outs

   When a student drops out of school, documentation to that effect will be placed in the student's special education confidential file. If the student re-enrolls, the previous IEP can be implemented if it is still current and appropriate. If not, a new one will be developed.

C. Request for Withdrawal from Special Education

When a parent/adult student requests withdrawal from special education services, an evaluation team must determine whether the student is still eligible for special education services. Written notice must be sent to the parent and adult student following the determination of whether or not the student should continue to receive special education services. If the evaluation team determines that services need to continue, the district will continue to provide services unless a mediation or due process hearing decision determines otherwise.

Section 2. Graduation and Diplomas

Graduation means meeting district requirements for receipt of a regular high school diploma. If a student is not granted a regular high school diploma or if the regular high school diploma is granted for completing requirements that are not comparable to regular graduation requirements, the student is entitled to receive a free appropriate public education (FAPE) through the semester in which he or she turns 21 years of age or completes requirements that are comparable to regular diploma requirements, whichever comes first.

A. Diploma and Transcript

The district will use a regular high school diploma for students under either of the following circumstances:

1. The student meets all of the regular graduation requirements or requirements that are comparable to those established in district policy. Comparable graduation requirements may include accommodations required to meet a student's disability, but they are as rigorous as regular graduation requirements established by the district. For example, a student who is deaf may not have to take a required oral speech class but would be required to take a different communication class that is equally as rigorous. Meeting these requirements for receipt of a regular graduation diploma ends a student's entitlement to FAPE.

2. The student meets the criteria established in the student's IEP that specifically addresses graduation. The IEP team may modify the criteria by:

   a. exempting the student from one or more courses or other graduations requirements;

   b. modifying the course content, objectives, instructional strategies, grading; and/or

   c. identifying alternative methods for demonstrating competence.

   Consideration of graduation requirements, if other than the regular graduation requirements, must be documented on the IEP at least one year before graduation is anticipated. The IEP team must include the high school principal or designee with the authority to assist in establishing graduation requirements in the IEP. In this case, entitlement to FAPE continues through the semester in which the student turns 21.

A modified or differentiated diploma or certificate may not be used for students who are eligible for special education unless the same diploma or certificate is granted to nondisabled students in the same graduating class.

The transcript serves as a record of individual accomplishments, achievements, and courses completed. Reasonable accommodations that allow the student to complete and demonstrate that he or she has met graduation requirements will not be noted in the transcript. However, modified course work may be noted in the transcript if the parent/adult student is informed in advance and the designation is not discriminatory. Course designations, titles, or symbols that are used solely to identify modified course work that is taken by students with disabilities will not be used.

For more information see Appendix 6, page A-103.

B. Graduation Ceremonies

A special education student who meets graduation criteria will be afforded the same opportunity to participate in graduation ceremonies, senior class trips, etc., as students who are not disabled.

Section 3. Grades, Class Ranking, and Honor Roll

Grades earned by students with disabilities will not be categorically disregarded or excluded from districtwide grade point average (GPA) standing. The district may establish objective criteria for class rankings, honors, etc., that weight courses according to degree of difficulty or exclude noncore courses so long as such practices are nondiscriminatory. The district may use contracts with a student to establish grading criteria. For more information on grades, class rankings and honor rolls see Appendix 6, page A-104.

Chapter 7
PROCEDURAL SAFEGUARDS AND CONFIDENTIALITY

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Chapter 7
PROCEDURAL SAFEGUARDS AND CONFIDENTIALITY

Legal Citations

Abbreviations Used:

Code of Federal Regulations (C.F.R.)
Education Department General Administrative Regulations (EDGAR)
Family Educational Rights and Privacy Act (FERPA)
General Education Provisions Act (GEPA)
Idaho Administrative Procedures Act (IDAPA)

Section 1. Special Education Rights Statement

A. 34 C.F.R. § 300.20
B. IDAPA 08.02.03.109.01.a.
  34 C.F.R. § 300.517
  34 C.F.R. § 300.347(c)
  34 C.F.R. § 300.344(a)(6)
  Idaho Code § 33-2002(4)
C. 34 C.F.R. § 300.504(a)
D. 34 C.F.R. § 300.504(b)

Section 2. Consent

A. 34 C.F.R. § 300.500
B. 34 C.F.R. § 300.505(a)(1)
C. 34 C.F.R. § 300.505(a)(3)
D. 34 C.F.R. § 300.505(b)
E. 34 C.F.R. § 300.505(c)
F. 34 C.F.R. § 300.500(b)

Section 3. Written Notice

A. 34 C.F.R. § 300.503(c)
B. 34 C.F.R. § 300.503(a)
C. 34 C.F.R. § 300.505(a)
  34 C.F.R. § 300.533(d)
D. 34 C.F.R. § 300.503(b)
E. IDAPA 08.02.03.109.05.a.

Section 4. Confidentiality and Access to Records

  IDAPA 08.02.03.109.05.k.
  34 C.F.R. § 300.560(b)
  34 C.F.R. § 99.3
A. 34 C.F.R. § 300.127
  34 C.F.R. § 300.571(a)
  34 C.F.R. § 300.572
  34 C.F.R. § 300.563
  34 C.F.R. § 300.561
  34 C.F.R. § 300.564
B. 34 C.F.R. § 300.562
  34 C.F.R. § 300.565
  Idaho Code § 32-717A
C. 34 C.F.R. § 99.31
D. 34 C.F.R. § 81(GEPA)
  34 C.F.R. § 76(EDGAR)
  34 C.F.R. § 300.573
E. 34 C.F.R. § 300.567
  34 C.F.R. § 300.569
F. 34 C.F.R. § 99.22
  34 C.F.R. § 300.568
  34 C.F.R. § 300.570
G. 34 C.F.R. § 300.574
  34 C.F.R. § 300.517

Section 5. Custody

A. Idaho Code § 32-717B
B. Idaho Code § 32-717A

Section 6. Surrogate Parents

A. 34 C.F.R. § 300.20(a)(4)
  34 C.F.R. § 300.515(e)
B. 34 C.F.R. § 300.515(a-b)
C. 34 C.F.R. § 300.515(c-d)

Section 7. Independent Educational Evaluations

A. 34 C.F.R. § 300.502(a)(3)(i)
B. 34 C.F.R. § 300.502(b)
C. IDAPA 08.02.03.109.05.j.
D. 34 C.F.R. § 300.502
E. 34 C.F.R. § 300.502
34 C.F.R. § 300.502(c)

Section 8. Mediation

A. 34 C.F.R. § 300.506
B. 34 C.F.R. § 300.506 (a-b)
IDAPA 08.02.03.109.05.b.
C. 34 C.F.R. § 300.506
D. 34 C.F.R. § 300.506(b)(2)
E. 34 C.F.R. § 300.506(a)
F. 34 C.F.R. §300.506(a)
G. 34 C.F.R. § 300.506(b)(6)
H. 34 C.F.R. § 300.506(b)(5)

Section 9. Complaint Procedures

A. 34 C.F.R. § 300.660(a)
34 C.F.R. § 300.662
B. 34 C.F.R. § 300.66
34 C.F.R. § 300.660(b)
C. 34 C.F.R. § 300.661
34 C.F.R. § 300.660(b)

Section 10. Due Process Hearings

A. IDAPA 08.02.03.109.05.c.
34 C.F.R. § 300.507
B. 34 C.F.R. § 300.507(a)(1)
34 C.F.R. § 300.507(c)
C. 34 C.F.R. § 300.507(a)
D. 34 C.F.R. § 300.507
34 C.F.R. § 300.506(b)
34 C.F.R. § 300.508
IDAPA 08.02.03.109.05.c-d.
E. 34 C.F.R. § 300.509
34 C.F.R. § 300.511(d)
F. 34 C.F.R. § 300.509
IDAPA 08.02.03.109.05.e.
IDAPA 08.02.03.109.05.h.
IDAPA 08.02.03.109.05.d.
G. 34 C.F.R. § 300.511
34 C.F.R. § 300.509(c-d)
34 C.F.R. § 512(a)
*IDAPA 08.02.03.109.05.*f-g.
34 C.F.R. §300.513(a)
H. 34 C.F.R. § 300.514
IDAPA 08.02.03.109.05.i.

Section 11. Expedited Due Process Hearings

A. IDAPA 08.02.03.109.01.d.
IDAPA 08.02.03.109.05.f.
34 C.F.R. § 300.528
B. 34 C.F.R. § 300.521
34 C.F.R. § 300.526(c)
34 C.F.R. § 300.525
C. IDAPA 08.02.03.109.05.c., e., f.

Section 12. Attorney's Fees

34 C.F.R. § 300.513
A. 34 C.F.R. § 300.513(c)
B. 34 C.F.R. § 300.513(c)(3)
C. 34 C.F.R. § 300.513(c)(4)
D. 34 C.F.R. § 300.513(c)(5)

Section 13. Student Discipline

Idaho Code § 33-205
34 C.F.R. § 300.121(d)
A. Idaho Code § 33-205
34 C.F.R. § 300.519-527
B. 34 C.F.R. § 300.519-521
C. 34 C.F.R. § 300.522
D. 34 C.F.R. § 300.520(b-c)
E. 34 C.F.R. § 300.523
F. 34 C.F.R. § 300.524
34 C.F.R. § 300.121(d)
G. 34 C.F.R. § 300.525(a)(2)
H. 34 C.F.R. § 300.526
I. 34 C.F.R. Part 300, Summary of Changes, Pg. 12415, Question #3
J. 34 C.F.R. § 300.527
K. 34 C.F.R. § 300.527(d)(2)
L. 34 C.F.R. § 300.529
M. 34 C.F.R. § 300.524(b)

34 C.F.R. § 300.576
Idaho Code § 33-209
N. 34 C.F.R. § 300.146

Chapter 7

PROCEDURAL SAFEGUARDS AND CONFIDENTIALITY

This chapter reflects numerous changes in procedural safeguards, also known as special education rights, as a result of the Individuals with Disabilities Education Act (IDEA) Amendments of 1997. The following list identifies changes by section:

- **Section 1** addresses changes to the *Special Education Rights Statement* stemming from new federal requirements and the transfer of rights to a student at the age of majority.
- **Section 2** reflects the change to obtain consent for assessments during reevaluation.
- **Section 3** clarifies the contents of written notice and times when written notice must be given.
- **Section 4** contains information on confidentiality and access to records under the IDEA and the Family Educational Rights and Privacy Act (FERPA).
- **Sections 5 and 6** contain information regarding custody and surrogate parents.
- **Section 7** contains new provisions for independent educational evaluations (IEE).
- **Section 8** reflects minor changes in Idaho's mediation system.
- **Sections 9 and 10** reflect the state complaint procedures and new due process hearing request contents.
- **Section 11** contains the process for expedited due process hearings (new section).
- **Section 12** reflects language that sets forth criteria for reducing or prohibiting attorneys' fees.
- **Section 13** identifies substantial statutory and regulatory changes related to discipline and behavior issues.

Section 1. Special Education Rights Statement

A parent/adult student has specific procedural safeguards given to him or her by the IDEA and state law. These procedural safeguards are called the "special education rights." The district has a document titled *Special Education Rights Statement* that is provided to parents and adult students, which contains a full explanation of the special education rights contained in this chapter.

A. Definition of a Parent

A parent is a natural or adoptive parent, a legal guardian, a person acting as a parent, or a surrogate parent who has been appointed by the district. The term "acting as a parent" includes persons such as a grandparent or stepparent with whom the student lives as well as a person who is legally responsible for a student's welfare. The term does not include state agency personnel if the student is a ward of the state.

A foster parent may act as a parent if the natural parent's authority to make educational decisions on behalf of his or her child has been terminated by law and the foster parent:

1. has an ongoing, long-term parental relationship with the student (residing with the foster parent for 6 months or more);
2. is willing to make the educational decisions required of a parent; and
3. has no interest that would conflict with the interests of the student.

In determining who has parental rights, individuals should be considered in the following order of priority:

1. a natural parent who retains guardianship;
2. a person who has legal documentation of being responsible for the student's welfare (guardianship, power of attorney, custody agreement);
3. a grandparent, stepparent, or foster parent with whom the student lives and who is acting as a parent; or
4. a surrogate parent appointed by the district to represent the student's interests in educational decisions.

For additional information on guardianship, see Appendix 7A, page A-115.

B. Definition of an Adult Student/Transfer of Rights

An adult student is a student who is at least 18 years of age to whom special education rights have transferred under the IDEA and Idaho Code.

Special education rights will transfer from the parent to the adult student when the student turns 18 years of age unless (1) the IEP team determines that the student does not have the ability to provide informed consent with respect to his or her educational program or (2) a parent has obtained legal guardianship including the scope of educational matters. However, the right to receive written notice is always retained by *both* the parent and adult student. Even if rights have transferred to the adult student, the parent will continue to receive copies of any notices, including written notices and invitations to IEP team meetings, that the adult student receives. It should be noted that while parents have the right to receive notices, only the adult student has the right to make decisions regarding his or her educational program.

Not later than the student's 17th birthday, the IEP team must discuss the transfer of special education rights to the student. If the team determines that there is no relevant information about the student to prohibit the transfer of rights at age 18, the student's IEP must contain a statement that the student has been informed that special education rights will transfer to him or her. See Appendix 4B, page A-77 for resources on teaching self-advocacy and self-determination skills to secondary students with disabilities in order to help prepare them to exercise their rights.

During the IEP meeting to discuss the transfer of rights, the IEP team will use the following as the basis for any denial of the transfer:

1. Evaluation data, test results, written reports, teacher observation, education records, and parent input, including whether the parent intends to seek guardianship.
2. Answers to the following questions:
    a. Is the student capable of understanding his or her rights?
    b. Is the student capable of exercising his or her rights?
    c. Is the student capable of understanding the consequences and impact of his or her decisions?

If the IEP team determines that the student lacks the ability to provide informed consent with respect to his or her educational program, a statement will be included in the IEP indicating that the parent will retain all special education rights after the student reaches age 18. A parent can also provide legal documentation of a student's incompetency under state law after the student reaches age 18. There is nothing in federal or state law that prohibits the IEP team from changing its decision later based on new information and input.

When the student's special education rights transfer at age 18, the parent and student will be informed that rights have transferred. If rights have transferred, the student or district can include the parent as a member of the IEP team because he or she is knowledgeable about the student.

C. When the Special Education Rights Statement Is Provided

The district will provide a *Special Education Rights Statement* that includes a full explanation of the special education rights afforded the parent/adult student, at a minimum, when:

1. an initial referral to consider a special education evaluation is made;

2. an invitation is made to an IEP team meeting;
3. informing the parent and adult student of the need to conduct a reevaluation;
4. the student turns 18 years old or when rights transfer, if later; or
5. a due process hearing request is requested.

D. Content of Rights

The *Special Education Rights Statement* will be written in the native language of the parent/adult student, unless it is clearly not feasible to do so. It will be written in an understandable manner. The *Special Education Rights Statement* will include a full explanation of the following special education rights:

1. consent;
2. written notice;
3. evaluation/reevaluation;
4. independent educational evaluation (IEE);
5. individualized education program (IEP);
6. least restrictive environment (LRE);
7. placement in an interim alternative educational setting (IAES);
8. access to education records and confidentiality;
9. requirements for unilateral placement of students in private schools at public expense;
10. mediation;
11. state complaint procedures and how to file a complaint;
12. due process hearing procedures and how to initiate a hearing;
13. placement during pendency of due process procedures;
14. civil action (appeals to civil court);

15. attorneys' fees; and

16. sources to contact for assistance in understanding special education rights.

A sample *Special Education Rights Statement* is included in Appendix 7B, page A-119.

Section 2. Consent

A. Definition

Consent is written approval given by a parent/adult student who has been fully informed of and understands all information relevant to the activity for which consent is sought. The request for consent describes the activity and lists the records, if any, that will be released and to whom. All information must be provided in the native language or mode of communication of the parent/adult student. The parent/adult student must be informed that the approval is voluntary and may be revoked at any time prior to the action. Consent is indicated by the parent's/adult student's signature.

B. Actions Requiring Consent

The following actions require the district to obtain written consent. Some of the actions that require consent also require written notice. A single form that meets the requirements of both consent and written notice can be used. Consent is embedded in many of the forms in Appendix 10.

1. Consent and written notice are required when:

    a. Conducting assessments as part of an initial evaluation to determine whether a student is eligible for special education.

    b. Conducting any assessment for reevaluation. This includes any assessments that are conducted after a student has been determined eligible for special education. If a specific assessment was not listed on the *Consent for Evaluation* form, then the district must secure consent again in order to conduct that particular assessment.

    c. Initially placing a student with a disability in a special education program.

2. Only consent is required when:

    a. An individual family service plan (IFSP) is used instead of an IEP for students ages 3 through 5.

    b. Disclosing personally identifiable information to unauthorized persons, unless provided as an exception under the FERPA regulations. The written consent must specify the records that may be disclosed, state the purpose of the disclosure, and identify the party to whom the disclosure will be made. A sample form, *Authorization for the Exchange of Confidential Information,* is in Appendix 10, page A-237. Also refer to Section 4C, page 105 in this chapter for a list of circumstances when consent is not required for disclosure of records.

C. When Consent Is Not Required

Consent is not required in the following situations:

1. A review of existing data is part of an evaluation or a reevaluation.
2. Tests are administered to both general and special education students in a grade or class and consent is not required for all students.
3. Teacher or related service provider observations, ongoing classroom evaluation, or criterion-referenced tests are used as assessments in determining the student's progress toward goals and benchmarks/objectives on the IEP.
4. A disclosure of personally identifiable information is covered by a specific exception in FERPA.

D. Refusal to Give Consent

At times, a parent/adult student may refuse to give consent for an assessment, a placement, or the release of information the district believes is necessary to ensure a free appropriate public education (FAPE). The district may continue to pursue the action by using mediation and/or requesting a due process hearing. If the hearing officer determines that the action is necessary, and the decision is not appealed by the parent/adult student, the district may proceed with the proposed action.

E. Failure to Respond for Reevaluation Assessment

When a parent/adult student fails to respond to reasonable measures taken by the district to obtain consent for assessment in order to determine continued eligibility, the district may proceed with the assessment. The district must have a record of its attempts to gain consent by documenting telephone calls made or attempted, correspondence sent, or visits made to the home or place of employment.

F. Revoking Consent

Consent previously given may be revoked for an assessment, initial placement, or disclosure of information only before the action occurs. If the action has not occurred and consent is revoked, the district may continue to pursue the action by using mediation and/or requesting a due process hearing. If the hearing officer determines that the action is necessary, and the decision is not appealed, the district may proceed with the action.

Section 3. Written Notice

A. Definition

Written notice is the act of informing a parent and adult student, in writing within a reasonable amount of time (approximately 10 days), before the district proposes or refuses to initiate or change the student's identification, evaluation, educational placement, or provision of FAPE.

Written notice must be in a language understandable to the general public. It must be provided in the native language or other mode of communication normally used by the parent and adult student unless it is clearly not feasible to do so. If the native language or other mode of communication is not a written language, the district must take steps to ensure the following:

1. The notice is translated orally or by other means in the native language or other mode of communication.
2. The parent and adult student understands the content of the notice.
3. There is written evidence that the notice requirements of this section have been met, such as a written record in the student's special education file documenting what was discussed.

When a parent/adult student has a dispute with the district's written notice of a proposed or refused action, he or she can use mediation, complaint, or due process hearing procedures afforded by the IDEA to remedy the dispute. In addition, the parent/adult student may have the right to prevent the district from taking action by filing a written objection. See Subsection E, page 101for more information.

B. When Written Notice Is Required

1. The district must provide written notice in a reasonable amount of time before proposing to initiate or change the following:
   a. identification of the student;
   b. any assessments for initial evaluation or reevaluation;
   c. the provision of FAPE; or
   d. educational placement.

2. Written notice is required within a reasonable amount of time after the district's decision to refuse a parent/adult student's request to initiate or change the identification, assessment, placement, or provision of FAPE.

3. Written notice is required if the district refuses to convene an IEP meeting at the request of a parent/adult student.

4. When the evaluation team determines that additional assessments are not required for the purpose of determining whether the student continues to meet eligibility criteria during a reevaluation, the district must provide written notice to the parent and adult student of the decision and the reasons for that decision. The parent/adult student must also be informed of his or her right to request assessments when necessary to determine continued eligibility.

C. When Written Notice is Not Required

Written notice is not required in the following situations:

1. When reviewing existing data as part of an evaluation or a reevaluation. However, the parent/adult student must be afforded the opportunity to participate in the review of existing data.

2. When tests are administered to both general and special education students in a grade or class.

3. When teacher or related service provider observations, ongoing classroom evaluation, or criterion-referenced tests are used as assessments in determining the student's progress toward goals and benchmarks/objectives on the IEP.

D. Content of Written Notice

The content of written notice is intended to provide the parent and adult student with enough information so that he or she is able to fully understand the district's proposed action, or refused action, and to make informed decisions, if necessary. The written notice must include the following:

1. a description of the action proposed or refused by the district;

2. an explanation of why the district proposes or refuses to take the action;

3. a description of any other options the district considered and the reasons why those options were rejected;

4. a description of each assessment procedure, test, record, or report the district used as a basis for the proposed or refused action;

5. a description of any other factors relevant to the proposed or refused action;

6. a statement that the parent/adult student has special education rights and a description of how to obtain a copy of a *Special Education Rights Statement*; and

7. sources to contact in obtaining assistance in understanding the special education rights.

For a sample form to provide written notice, see Appendix 10, page A-231. In addition, written notice is embedded in many of the forms in Appendix 10.

E. Objection to District Proposal

If a parent/adult student disagrees with an IEP change or placement change that is proposed by the district, he or she may file a written objection to all or part of the proposed change. The district will respond as follows:

1. If the objection is postmarked or hand delivered within 10 days of the date the parent/adult student received the written notice, the changes to which the parent/adult student objects cannot be implemented.

2. If a proposed change is being implemented during the 10-day period and an objection is received, the implementation of that change must cease.

3. If an objection is made after 10 days, the district may continue to implement the change, but the parent/adult student still has IDEA safeguard procedures that can be followed.

All parties may use informal methods to resolve a disagreement, such as additional IEP team meetings or voluntary mediation. If these informal attempts fail, the district may request a due process hearing regarding the proposed change. The written objection cannot be used to prevent the district from unilaterally placing a student in an IAES in accordance with IDEA procedures for discipline of a student.

A parent/adult student who needs assistance to file a written objection will be referred by the district or the State Department of Education (SDE) to Idaho Parents Unlimited (IPUL) or other relevant sources.

Section 4. Confidentiality and Access to Records

The district must collect, use, and maintain information about a student to make appropriate decisions about special education and the provision of FAPE. A student's special education case manager, usually the special education teacher, should organize all relevant records specific to district guidelines and IDEA requirements.

The IDEA and FERPA contain provisions to protect the confidentiality of personally identifiable information in student special education records. They also provide for the right to review and inspect records.

A "record" is defined as personally identifiable information directly related to the student and maintained by the district. A student record can be oral, written, or electronic and may include, but is not limited to:

1. identifying data (name, address, parents, siblings, Social Security number, list of personal characteristics making identification possible);
2. academic work completed (courses taken, transcript);
3. level of achievement (grades, portfolios, performance assessments, scores on standardized achievement tests, etc);
4. attendance data;
5. scores and protocols of standardized intelligence, aptitude, and psychological tests;
6. records of teachers, counselors, medical personnel, and psychologists working directly with a student;
7. interest inventory results;
8. observations and verified reports of serious or recurring behavior patterns;
9. videotapes or audiotapes;
10. health data including medical assessments;
11. family background information;
12. transportation records; and
13. student records maintained by agencies or individuals contracted with the district.

The term "record" does not include:

1. records of instructional, supervisory, ancillary, and administrative personnel that are kept in the sole possession of the maker of the record, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record;

2. records created by law enforcement units of schools maintained separately for non-educational purposes; and

3. employment records about a student who is employed by a school or district.

A. Protection of Records

The district must prevent unauthorized disclosure of personally identifiable information pertaining to students with disabilities. "Disclosure" is the release, transfer, or other communication of education records or of personally identifiable information contained in those records to any party, by any means, including oral, written, or electronic.

To ensure protection of records, the district must do the following:

1. Obtain written and dated consent from the parent/adult student before disclosing personally identifiable information:

    a. to unauthorized individuals; or

    b. when the information is to be used for any purpose except as required for IDEA, Part B.

2. Designate and train a records manager to assure security of confidential records for students with disabilities.

3. Maintain a log of requests for and access to education records if the disclosure is not to:

    a. a parent/adult student;

    b. a school employee with a legitimate educational interest;

    c. a party seeking designated directory information; or

    d. a party receiving the records as directed by a federal jury or other subpoena ordering no one to disclose the existence of the request to access records.

    This log includes the name, agency affiliation, date, and purpose for accessing the records. Record of denials or partially fulfilled requests should also be maintained.

4. Maintain, for public inspection, a current listing of names and positions of employees who may have access to personally identifiable information.

5. Establish procedures to ensure the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages.

6. Ensure that, if any education record includes information on more than one student, a parent/adult student will only be allowed to inspect, review, or be informed about the record of the student at issue.

7. Ensure that each person collecting or using personally identifiable information receives training or instruction regarding the policies and procedures governing confidentiality. All staff members, even those who do not have access to special education records, should be informed about what is considered appropriate and inappropriate access to and use of information within the records. The district may maintain a record of the training provided, including the name of the person or persons providing the training, dates of the training, those attending, and the subjects covered, for the purpose of documenting that new staff members have been trained as soon as possible after they have been hired.

B. Access to Records

The district must:

1. Permit a parent/adult student, or his or her representative, to inspect and review any record relating to educational matters that is collected, maintained, or used by the district. The district will presume that a custodial or noncustodial parent has authority to inspect and review a record relating to his or her child unless there are legal documents limiting access to those records under state law. A minor child's address will be deleted from any record if requested in writing by a custodial parent to prohibit a noncustodial parent from learning the address simply by having access to the school records. The district will make records available to a parent/adult student for review:

   a. without delay but no later than 45 days after the request;

   b. before any meeting regarding an IEP; and

   c. at least 5 business days before any due process hearing.

2. Upon request, provide a parent/adult student a list of the types of education records the school collects, maintains, or uses and where they are kept.

3. Respond to any reasonable request made by a parent/adult student for an explanation and interpretation of a record.

4. Provide a copy of education records if a parent/adult student would otherwise be unable to exercise his or her right to inspect and review those records. A fee may be charged for the copies but not to search for or retrieve information. The district will publish a schedule of fees it intends to charge.

5. Always provide a parent/adult student a copy of the following IDEA requirements without cost:

    a. any IEP; and

    b. any documentation of identification and eligibility.

In the event that a parent/adult student refuses consent for disclosure, mediation may be offered as a voluntary way of resolving the disagreement.

C. Disclosures Not Requiring Consent

Consent is generally required to disclose personally identifiable information to others. However, consent is not required for the following:

1. A school employee who has a legitimate educational interest to access the records.

2. A representative of the Federal Comptroller General, the United States Department of Education, or the State Department of Education (SDE) who accesses records necessary for an audit or evaluation of a federal program or for enforcement or compliance with federal regulations.

3. When a student transfers to another school or school system in which the student intends to enroll unless a district has adopted a procedure requiring consent. However, the parent/adult student should be notified of the request for records at the last known address of the parent/adult student.

4. When necessary to protect the health and safety of the student or other individuals in connection with an emergency.

5. When disclosure concerns the juvenile justice system's ability to effectively serve the student or the ability to respond to court orders or subpoenas, as specified in state law. The district will make a reasonable effort to notify the parent of the court order in advance of compliance, unless the subpoena specifically states that it is not to be disclosed.

6. Organizations that conduct studies on behalf of education agencies or institutions under specified FERPA criteria.

7. When disclosure is in connection with an application for financial aid and is necessary to determine eligibility for the aid, the amount of the aid, conditions for the aid, or to enforce the terms and conditions of the aid ("financial aid" means a payment of funds to an individual that is conditioned on the individual's attendance at an education agency or institution).

8. When the district has designated information as "directory information" under the conditions in FERPA.

D. Destruction of Records

The district will maintain education records for at least 5 years to demonstrate fiscal and program compliance with IDEA requirements. The district must inform a parent/adult student when personally identifiable information collected, maintained, or used is to be destroyed because:

1. it is no longer needed to provide educational services to the student; and

2. it is greater than 5 years old.

The parent/adult student must be informed of the personally identifiable information that the district intends to destroy and that the information will be destroyed no earlier than 45 days from the date of the notice. The parent/adult student must also be informed of the procedure to follow if he or she wishes to formally object to the destruction of the information and wants the records sent to him or her.

Written records of individual students are confidential and must be shredded or burned under supervision of the staff member responsible for the records if not released to the parent/adult student. The records manager should maintain a log that documents the date of destruction or release of records.

A permanent record of the student's name, address, phone number, grades, classes attended, immunization records, test scores, attendance record, grade level, and year completed may be maintained by the district without a time limitation. Any other personally identifiable information must be destroyed at the request of the parent/adult student if it is older than 5 years and no longer needed to provide special education. When informing the parent/adult student of his or her rights, the district should remind the parent/adult student that the records might be needed for Social Security benefits or other purposes in the future.

E. Request for Amendment of Records

A parent/adult student may request that the district amend the records when he or she believes that information collected, maintained, or used in the education record is inaccurate, misleading, or in violation of the privacy or other rights of the student. The district will use the following procedure:

1. The district, within a reasonable period of time—not to exceed 45 days of receipt of the request—must decide whether to amend the record. If the district refuses to amend the record, the parent/adult student must be informed of the refusal and be advised of the right to and procedure for requesting a district hearing. A district hearing is an informal hearing that does not have all the requirements of a due process hearing.

2. If a district hearing is requested and the district decides that the information is inaccurate, misleading, or in violation of the student's rights, the district must amend the record and inform the parent/adult student in writing.

3. If a district hearing is requested and the district decides the information is accurate and does not violate the student's rights, the district must inform the parent/adult student that he or she may place a statement in the record. This statement may comment on the information in the record or set forth the parent's/adult student's reasons for disagreeing with the district. Any statement placed with a record must accompany the record for as long as the district maintains the record. If the record is disclosed by the district to any person, the statement must also be disclosed.

F. District Hearings on Procedures for Records

If a parent/adult student requests a district hearing on a proposed amendment of education records, the district will follow these procedures:

1. The district hearing will be held within a reasonable amount of time after receiving the request. The district will give the parent/adult student notice of the date, time, and place reasonably in advance of the hearing.

2. The district's hearing will be conducted by an employee of the district or other individual who does not have a direct interest in the outcome of the hearing. The district will give the parent/adult student a full and fair opportunity to present evidence relevant to the issues raised. The parent/adult student may, at his or her own expense, be assisted or represented by one or more individuals of his or her own choice, including an attorney.

3. The district will make its decision in writing within a reasonable period of time after the hearing. The decision must be based solely on the evidence presented at the district's hearing and must include a summary of the evidence and the reasons for the decision.

G. Students' Rights

When special education rights transfer to a student under the IDEA and Idaho Code, the FERPA rights regarding education records also transfer to the student. The district must inform the adult student and the parent that both IDEA and FERPA rights regarding education records transfer.

Additional information concerning the management of student records is included in Appendix 7C, page A-129.

Section 5. Custody

A. Definitions of Custody

The following definitions of custody are used by Idaho courts in divorce proceedings:

1. **Joint custody** means an order awarding custody of a minor child to both parents and providing that physical custody shall be shared by the parents in such a way as to assure the child frequent or continuing contact with both parents. A court may award either joint physical custody, joint legal custody, or both. If the court has declined an order awarding joint custody, the court order shall state in the decision the reason for denial of joint custody.

2. **Joint physical custody** means awarding each of the parents significant periods of time in which a child resides with or is under the care and supervision of each of the parents. The actual amount of time with each parent is determined by the court. Generally, one of the parents is awarded primary physical custody.

3. **Joint legal custody** means that the parents or parties are required to share the decision making rights, responsibilities, and authority relating to the health, education, and general welfare of a child. In Idaho, parents have joint legal custody unless one or both parent's rights have been terminated.

B. Conflicts between Parents Who Have Joint Custody

1. **Custody Questions:** When it is known that a custody question exists that involves the relevant legal status of one or both parents of a student, the district will ask the parent(s) to furnish a copy of the pertinent court order or decree, if one exists, to clarify the question at issue. School personnel will abide by the most recent court order or decree.

   When school personnel receive conflicting information about custody, they will (1) initially follow the instructions of the parent with whom the child currently resides and (2) request a certified court document to clarify the custody issue.

2. **Conflicting Instructions:** When parents who have joint legal custody give conflicting instructions, the district's obligation is to inform the parents that any action proposed or refused will be based on the needs of the student and in accordance with IDEA requirements. Both the district and either parent have options under the IDEA to resolve disagreements, including mediation and due process hearings.

3. **Access to Records:** A parent who does not have primary physical custody has the same right to access records and to participate in special education decision making as does the parent with primary physical custody, unless otherwise stipulated by a court. Idaho Code states, "Notwithstanding any other provisions of law, access to records and information pertaining to a minor child including, but not limited to medical, dental, health, and school or educational records, shall not be denied to a parent because the parent is not the child's custodial parent." Another provision of the law allows the parent with primary physical custody to request in writing that a minor child's address be deleted from any record to prohibit the other parent from learning the child's address by having access to school records.

Section 6. Surrogate Parents

A. Definition

A surrogate parent is a person who is appointed by the district to serve in the capacity of a parent and to make decisions about special education for a student with a disability when a parent cannot be located. The surrogate parent has the same rights as a natural parent throughout the educational decision making process.

B. Referral for a Surrogate Parent

Any person who is aware that a student may need a surrogate parent may make a referral for a determination to the district's special education director or an appropriate district administrator. The district will appoint a surrogate when:

1. A parent cannot be identified.
2. A parent cannot be found after reasonable efforts to locate the parent.
3. The student is in the state's custody and no one who meets the definition of a parent can be identified or located.

The district will make a good faith effort and maintain records of attempts to locate a parent. The district cannot appoint a surrogate parent when the natural parent is available but chooses not to participate. When a surrogate parent is needed for a student, the district will appoint a surrogate who meets the conditions set forth in subsection C.

C. Conditions for Serving as a Surrogate Parent

A surrogate parent may represent the student in all matters relating to identification, evaluation, placement, and the provision of FAPE. The surrogate parent must:

1. Have knowledge and skills that ensure effective representation.

2. Not have an interest that conflicts with the interest of the student.

3. Not be an employee of the SDE, the district, or any other agency that is involved in the education or care of the student. A person who otherwise qualifies to be a surrogate parent is not an employee of the district or agency solely because he or she is paid to serve as a surrogate parent.

The district may select a person who is an employee of a nonpublic agency that only provides non-educational care for the student and meets the requirements listed above in items 1 and 2. The district's procedures for selection, training and administrative considerations regarding surrogate parents are located in Appendix 7D, Page A-146.

Section 7. Independent Educational Evaluations

A. Definition

An independent educational evaluation means one or more individual assessments, each completed by a qualified examiner who is not employed by the district responsible for the education of the student in question.

B. Right to an Independent Educational Evaluation

1. A parent/adult student has the right to obtain an independent educational evaluation (IEE) at public expense if he or she disagrees with an evaluation obtained or conducted by the district. The parent/adult student is entitled to only one IEE at public expense for each district evaluation.

2. The parent/adult student is not automatically entitled to have additional assessments beyond those determined necessary for an evaluation. However, if the parent/adult student is interested in additional or different assessments and the district refuses to provide them, he or she may pursue additional assessments through a due process hearing request. In addition, a due process hearing may be initiated by the district to determine if the evaluation conducted by the district is appropriate. If the final decision of a hearing officer, or a court of law's decision on an appeal, is that the evaluation conducted by the district was appropriate, the parent/adult student still has the right to an IEE but at his or her own expense.

3. If a hearing officer requests an IEE as part of a hearing, the evaluation must be at public expense.

C. Procedures for Requesting an IEE

If a parent/adult student requests an IEE at public expense, the district may ask why he or she disagrees with the evaluation obtained by the district, but the district cannot require an explanation. Then, the district must give the parent/adult student the criteria under which an IEE can be obtained. The district's IEE criteria must include the following information:

1. the location for the evaluation;
2. the required qualifications of the examiner;
3. the eligibility requirements for the specific disability categories; and
4. the maximum allowable charges for specified assessments to eliminate unreasonably excessive fees, including travel costs for necessary services not available in the community.

Except for the criteria listed above, the district may not impose other conditions or time lines if doing so would be inconsistent with the parent's/adult student's right to an IEE. Upon request, a list of qualified examiners who can conduct an IEE will be provided.

A parent/adult student may request an opportunity to demonstrate that unique circumstances justify an IEE that does not fall within the district's cost criteria. If an IEE that falls outside the district's cost criteria is justified, that IEE will be publicly funded.

D. District Responsibilities Following IEE Requests

1. If an IEE is requested by a parent/adult student, the district must do one of the following:
    a. Ensure an IEE is provided at public expense in a timely manner by providing the district's IEE criteria and information about where an IEE may be obtained.
    b. Ask for mediation without unnecessary delay to try to resolve differences.
    c. Request a due process hearing to show that the district's evaluation is appropriate. If the final hearing decision is that the district's evaluation is appropriate, the parent/adult student may pursue an IEE, but it will be at his or her expense.
2. If a parent/adult student asks the district to pay for an IEE that has already been obtained, the district must do one of the following:

a. Pay for the IEE if it meets the criteria for publicly funded IEEs. If the district believes that its evaluation was appropriate but agrees to pay for the IEE, the district should state this in writing within the same document in which it agrees to pay.

b. Request mediation.

c. Request a due process hearing within 10 days of the billing to show that the evaluation obtained by the parent/adult student did not meet the criteria for publicly funded IEEs.

d. Request a due process hearing within 10 days of billing to demonstrate that the district's evaluation or assessment was appropriate. The district does not have to pay for an IEE if the hearing officer finds for the district.

E. Consideration of the IEE Results

If a parent/adult student obtains an IEE which meets the district's criteria and makes that evaluation available to the district, the results must be considered by the district in any decision made with respect to the provision of FAPE. The results may also be presented as evidence at a hearing regarding the student. This is true regardless of whether the IEE is at the expense of the parent/adult student or district.

The results of an IEE cannot be the sole determining factor for eligibility. The evaluation team has the responsibility to use existing evaluation data in addition to IEE to determine whether a student has or continues to have a disability under the IDEA.

Section 8. Mediation

A. Definition

Mediation is a voluntary, informal process in which an impartial third party (a mediator) can help parents/adult students and district personnel resolve disagreements. Mediation builds positive working relationships, encourages mutual understanding, and helps the parties focus on their common interest—the student.

The ultimate goal of mediation is to seek a written agreement that is acceptable to both parties. Even if a formal agreement is not reached, mediation may be helpful in clarifying issues. The district will not use the term "mediation" to refer to any district-level process for resolving disputes. When an impasse is reached between the district and a parent/adult student, the district will suggest the SDE-administered mediation system.

B. Idaho's Mediation System

A mediation system has been developed by the SDE to help resolve disagreements between districts and parents/adult students regarding identification, evaluation, educational placement, and the provision of FAPE. Mediation may be requested by the district or the parent/adult student at any time. The SDE has the discretion to suggest mediation to either party at any time it seems appropriate. Under IDEA requirements, the SDE is required to offer mediation whenever a due process hearing has been requested.

The SDE mediation system has the following characteristics:

1. Mediation is a voluntary process mutually agreed to by the parent/adult student and the district.
2. Mediation is confidential.
3. Mediation is available at no cost to either the parent/adult student or the district.
4. Mediation will not be used to deny or delay the right to a due process hearing, or any other rights afforded to students and parents.

C. Requesting Mediation

A request for mediation may occur when:

1. the parties involved are unwilling or unable to modify their positions without outside assistance;
2. after making a good faith effort, the parties face an impasse in attempting to resolve the dispute; or
3. a request for a due process hearing occurs.

A telephone or written request for mediation may be made by the parties. Requests for mediation should be made to:

Dispute Resolution Specialist
State Department of Education
Bureau of Special Education
P.O. Box 83720
Boise, ID 83720-0027
(208) 332-6912
Fax: (208) 334-4664

D. SDE Mediators

SDE mediators are impartial and trained in effective mediation, communication, and problem solving skills, and in laws and regulations relating to the provision of special education and related services. A mediator acts as a facilitator to assist the parent/adult student and the district in resolving a conflict. At times, the SDE may appoint two individuals to serve as co-mediators.

A mediator must not:

1. Be an employee of the district involved in the dispute;
2. Have children enrolled in the district involved in the dispute; or
3. Have a personal or professional conflict of interest.

In addition, if a due process hearing is requested:

4. Co-mediators may not be used; and
5. The mediator may not be an employee of any district or state agency providing services that are publicly funded under the IDEA, Part B.

E. Selection of a Mediator

When a parent/adult student or the district requests mediation to resolve a dispute, the SDE will appoint a mediator from a list of qualified mediators.

If a due process hearing is requested, the SDE will use a rotating list to select the mediator, or both parties will be involved in and agree with the selection of the mediator.

F. Mediation Time Lines

The SDE will appoint a mediator within 3 days of a request for mediation. The mediation will be held in a location convenient to the parties involved and every effort will be made to complete the process within 14 days.

G. Confidentiality

Discussions that occur during the mediation process are confidential and cannot be used as evidence in any subsequent due process hearing or civil proceeding. The parties in the mediation process will be required to sign a confidentiality pledge before the commencement of the mediation session.

H. Mediation Agreement

An agreement reached by the parties through mediation must be set forth in writing.

See Appendix 7E, page A-155 for more information regarding mediation.

Section 9. Complaint Procedures

A signed, written complaint may be filed with the SDE by any individual or organization from Idaho or another state who believes the district or other education agency has violated a requirement of Part B of the IDEA. The district will forward information to the SDE as necessary to provide for a timely resolution of the complaint. The district will take corrective actions if required as part of the complaint resolution. A complete copy of the SDE complaint procedures can be found in Appendix 7F, page A-163.

A. Filing Complaints

Complaints can be made by any person or organization to:

Dispute Resolution Specialist
State Department of Education
Bureau of Special Education
P.O. Box 83720
Boise, ID 83720-0027
(208) 332-6912
Fax: (208) 334-4664

A complaint must include the following:

1. current date;
2. name, address, and signature of the person making the complaint (a telephone number should be included if available);
3. name and address of the student(s) involved;
4. the school and district or other education agency that is the subject of the complaint;
5. one or more statements alleging that the district has violated one or more requirements of Part B of the IDEA; and
6. facts and/or a description of the events that support each allegation.

The complaint must allege a violation that occurred not more than one year prior to the date that the complaint is received unless a longer period is reasonable. A longer period may be reasonable because either (1) the violation is considered to be ongoing or (2) the complainant is requesting compensatory services for a violation that occurred not more than 3 years prior to the date the complaint is received.

B. Resolving Complaints

The SDE will make every effort to resolve complaints in the least adversarial manner possible. Resolution of a formal complaint may be achieved through one or more of the following four processes:

1. **Early Complaint Resolution (ECR)**: The SDE may propose the use of ECR to resolve the complaint. This approach, which must be mutually agreed upon, provides the complainant and the district an opportunity to immediately resolve the issues prompting the complaint, even though the parties may not agree on particular findings of fact and conclusions. The SDE Dispute Resolution Specialist or a contracted investigator will facilitate a resolution through the development of a written agreement to be signed by both parties. If this process is not successful, the SDE will conduct a full investigation.

2. **Corrective Action Plan (CAP)**: The district may propose a CAP to address the allegations in the complaint. The SDE may accept, reject, or negotiate the proposed CAP or require other corrective actions or time lines to ensure the district will achieve compliance for each allegation stated in the complaint. If this process is not successful, the SDE will conduct a full investigation.

3. **Investigation**: If necessary, the SDE will investigate the complaint, by conducting interviews; reviewing files, correspondence, and other information. An on-site investigation may occur if necessary.

4. **Verification of Resolution**: At any time during an investigation, the district may submit information to the SDE to document that one or more of the allegations of the complaint have been resolved. The SDE may also receive similar information from other sources.

C. Summary of SDE Complaint Procedures

Upon receipt of a written complaint, the SDE will do the following:

1. Notify the district and offer both parties mediation.

2. Evaluate the complaint to determine if the SDE can proceed to resolve it. The SDE will notify the person filing the complaint if resolution cannot proceed for any reason.

3. Set aside all or part of any written complaint that is being addressed in a due process hearing until the conclusion of the hearing. However, the SDE will resolve a complaint alleging that the district failed to implement a due process hearing decision. If there are multiple issues, any issue that is not a part of the due process action will be resolved using the SDE complaint procedures and time lines.

4. Give the complainant the opportunity to submit additional information about the allegations, either orally or in writing.

5. Resolve the complaint and issue a written decision that includes the findings of fact, conclusions, and resolution for each allegation within 60 days of receipt of the complaint. This time period may be extended, but only under exceptional circumstances, which must be documented by the SDE. The resolution will state how to remedy the denial of services, which may include the award of monetary reimbursement or other corrective action as appropriate to the needs of the student. The future provision of services for a student with a disability will be addressed as needed.

6. Ensure the district takes corrective action if it is determined that the district was out of compliance.

Section 10. Due Process Hearings

A. Definition

Idaho's single-tiered due process hearing system has two types of hearings:

1. A regular due process hearing is an administrative hearing that is conducted to resolve disputes on any matter related to identification, evaluation, placement, or the provision of FAPE except for disputes concerning discipline for which an expedited hearing may be requested under the IDEA.

2. An expedited due process hearing is an administrative hearing to resolve disputes concerning discipline for which shortened time lines are in effect in accordance with the IDEA.

This section covers the general requirements of both a regular due process hearing and an expedited hearing. (See Section 11, page 122 for specific exceptions in the requirements for an expedited due process hearing.)

B. Due Process Hearing Request from Parent/Adult Student

A due process hearing may be requested on behalf of a student by a parent/adult student or by an attorney representing the student in the following circumstances:

1. on issues pertaining to identification, evaluation, educational placement, or provision of FAPE if:
    a. the district proposes to initiate or change any of these matters;
    b. the district refuses the parent's/adult student's request to initiate or change any of these matters; or
2. there is a disagreement with the IEP team's manifestation determination decision.

A written request for a due process hearing should be mailed to:

Dispute Resolution Specialist
State Department of Education
Bureau of Special Education
P.O. Box 83720
Boise, ID 83720-0027
(208) 332-6912
Fax: (208) 334-4664

A copy of the written request should be sent to the district. The SDE will provide reasonable accommodations to individuals who need assistance in filing a written request. The request needs to include the following information:

1. the student's name, address, and school;
2. a description of the nature of the problem pertaining to one of the circumstances mentioned in subsection B above, including relevant facts; and
3. a proposed resolution of the problem, to the extent known and available to the parent/ adult student.

However, the SDE or district cannot deny or delay the right to a due process hearing for failure to provide the information required in the request. When a district receives an oral or written request for a hearing, the SDE will be notified immediately. A sample form is available from the SDE or district to assist a parent/adult student in filing a written request for a due process hearing. Refer to Appendix 7G, page A-169.

C. Due Process Hearing Request by a District

A district may initiate a due process hearing in an attempt to accomplish one or more of the following:

1. override a parent's/adult student's refusal of consent for an evaluation, placement in special education, or release of information;

2. *override a written objection to an IEP change or placement change;*

3. ask a hearing officer to place a student in an IAES for disciplinary reasons; or

4. have a hearing officer determine whether an evaluation conducted by the district was appropriate or if an evaluation obtained by a parent/adult student meets the criteria for publicly funded IEEs.

If the district initiates a hearing, it will inform the parent/adult student and notify him or her that mediation is available.

D. General Guidelines for Due Process Hearings

1. Whenever a due process hearing is requested, the SDE will offer mediation as an alternative dispute resolution mechanism. However, the offer of mediation does not negate a parent's/adult student's or a district's right to a due process hearing, nor can it interfere with the time lines for the hearing. Mediation is a voluntary process and may be used only when both parties to the dispute agree to mediate. If the SDE appoints a mediator, the SDE will reimburse the mediator for mediation expenses.

2. The district superintendent has the responsibility for informing the district's board of trustees of any request for a hearing.

3. Upon request, or if a hearing is initiated, the district must inform a parent/adult student of any free or low-cost legal or other relevant services available to him or her.

4. Within 10 calendar days of a request for a hearing, an impartial hearing officer will be assigned by the SDE. The SDE maintains a list of trained hearing officers, along with their qualifications.

5. A hearing officer may not be an employee of the district or the SDE, an individual having any personal or professional interest that would conflict with his or her objectivity in the hearing, or a member of the board of trustees of the district.

6. All actual expenses incurred by the hearing officer for transportation, lodging, meals, and any other expenses related to the hearing and all related proceedings will be paid for by the district. The hearing officer will be compensated at rates set by the SDE.

E. Prior to the Hearing

1. A parent/adult student will be allowed to inspect and review reports, files, and records pertaining to the student at least 5 business days prior to the time of participating in a hearing. A district may charge a fee for copies of records if the fee does not effectively prevent a parent/adult student from exercising his or her right to inspect and review those records. The district may not charge a fee to search for or retrieve records.

2. At least 5 business days prior to a due process hearing, each party will disclose to all other parties (a) evaluations completed by that date and (b) recommendations based on those evaluations which he or she intends to use at the hearing. In addition, parties should disclose any other evidence to be presented at the hearing; failure to do so could result in the other party prohibiting the introduction of the evidence at the time of the hearing. Refer to subsection F, item 5 below.

3. The hearing officer will provide notification as to the time and place of the due process hearing to the parent/adult student, district officials, and the SDE. The hearing must be conducted at a time and place reasonably convenient to the parent/adult student.

F. The Due Process Hearing

1. The hearing officer will preside and conduct the proceedings in a fair and impartial manner, permitting all parties an opportunity to present their information and opinions pursuant to Idaho Administrative Procedure Act (IDAPA) and IDEA requirements.

2. A parent/adult student and district personnel may be accompanied and advised by legal counsel and other persons with special knowledge or training about students with disabilities.

3. A parent/adult student has the right to open the hearing to the public and to have the student who is the subject of the hearing present.

4. A parent/adult student, a district, and their respective representatives have the right to present evidence and to confront, cross examine, and compel the attendance of witnesses.

5. Any party may prohibit the introduction of any evidence at the hearing that was not disclosed at least 5 business days before the hearing.

6. During the hearing the district will provide reasonable accommodations as required by federal regulations. Disputes will be referred to the SDE's Americans with Disabilities Act committee for resolution.

7. A record of the hearing will be made. The record will be a written transcript unless the parent/adult student opts for an electronic verbatim record. Transcript costs will be paid by the district. A copy of the transcript will remain with the SDE. The parent/adult student and district personnel have the right to obtain a copy of the record upon formal request.

G. Decisions

1. The decision of the hearing officer will be based solely on presentations made at the formal hearing.

2. The decision will include findings of fact and conclusions of law.

3. The hearing officer's written decision must be available within 45 calendar days from the date of request for a hearing. The 45-calendar-day time frame begins when the written request is actually received by the district or the SDE, whichever is earlier. A hearing officer may grant specific extensions of time at the request of either party.

4. The findings of fact and decision must be sent to the parent/adult student at no cost. Copies will also be mailed to the district superintendent, the SDE, and representatives of the district and the parent/adult student, if any. The findings of fact and decision will be written unless the parent/adult student opts for an electronic version.

5. After deleting personally identifiable information, the SDE will transmit the decision to the Special Education Advisory Panel (SEAP) and make the decision available to the general public upon request.

6. A hearing officer's decision will be binding and will be implemented not later than 14 calendar days from the date of issuance unless (1) the decision specifies a different implementation date or (2) either party appeals the decision by initiating civil action in state or federal district court. An appeal to civil court must be filed within 42 calendar days from the date of issuance of the hearing officer's decision.

7. A civil court may, at its discretion, award reasonable attorneys' fees as part of the costs to the prevailing party in a due process hearing or appeal. See Section 12, page 123 of this chapter for more information about attorneys' fees.

H. Stay Put

During the pendency of any due process hearing, the student must remain, or stay put, in his or her current educational placement unless the district and parent/adult student agree otherwise. This stay put placement continues during the appeal and any subsequent appeals unless a hearing officer agrees with a parent/adult student that a change of placement is appropriate, in which case, the placement identified in the hearing officer's decision becomes the stay put placement.

Refer to Section 13H, page 131 of this chapter for requirements of a stay put placement in an interim alternative educational setting (IAES) during the pendency of a hearing.

If the stay put dispute involves an application for initial admission to public school, the student, with the consent of his or her parent, must be placed in the public school program until the proceedings are completed. This provision does not apply when a child is transitioning from a Part C program to Part B services in Idaho.

Section 11. Expedited Due Process Hearings

A. Definition

An expedited due process hearing is defined as an administrative hearing to resolve disputes concerning discipline for which shortened time lines are in effect in accordance with the IDEA.

B. Expedited Hearing Requests

A district may request an expedited hearing if:

1. the district seeks a hearing officer's order for a change of placement to an IAES for up to 45 calendar days.

2. the time line of the IAES has expired or will expire, and the district maintains that returning the student to the prior placement would be dangerous for the student or others.

A parent/adult student may request an expedited hearing if:

1. he or she disagrees with a determination that the student's behavior was not a manifestation of the disability; or

2. he or she disagrees with the district's discipline decision, which resulted in a change of placement.

Refer to Sections 10H, page 121 and 13H, page 131 of this chapter for additional information regarding placement during a hearing.

C. The Expedited Hearing Process and Decisions

An expedited hearing will be conducted in a fair and impartial manner. Guidelines and proceedings will be the same as in a due process hearing, except for the following changes:

1. The SDE will appoint a hearing officer within 5 business days of a request.

2. The hearing officer's written decision must be available within 20 calendar days of receipt of the request for a hearing unless a specific extension of this time line, not exceeding an additional 25 calendar days, is requested by one party and agreed to by both parties. Regardless of the circumstances, a decision must be made within 45 calendar days of receipt of the request.

Refer to Section 10, page 117 of this chapter for the guidelines and proceedings of an expedited due process hearing that are the same as in the regular due process hearing system.

Section 12. Attorneys' Fees

A district court will have jurisdiction in the awarding, determination, or prohibition of attorneys' fees to a parent/adult student. The court may:

1. award reasonable attorneys' fees as part of the costs to a parent/adult student who is the prevailing party; and

2. determine the amount of attorneys' fees, using prevailing rates in the community in which the action arose, for the kind and quality of services provided.

Pursuant to the IDEA, fees awarded must be based on rates prevailing in the community in which the action arose for the kind and quality of services furnished. No bonus or multiplier may be used in calculating the amount of fees awarded.

Funds under Part B of the IDEA cannot be used by the district to pay any attorneys' fees or costs of a party related to an action or proceeding, such as depositions, expert witnesses, settlements, and other related costs. However, Part B funds may be used to pay hearing officer fees or the costs of a meeting room to conduct the hearing.

A. Prohibition of Attorneys' Fees

1. Attorneys' fees may not be awarded:

   a. for legal representation at an IEP meeting unless such a meeting is convened as a result of a due process hearing or a judicial action; or

   b. for a mediation that is conducted prior to a request for a due process hearing.

2. Attorneys' fees may not be awarded and related costs may not be reimbursed in any action or proceeding for services performed subsequent to the time of a written offer of settlement to a parent/adult student if:

a. the district makes an offer at least 10 days before a due process hearing or a civil proceeding begins;

b. the offer is not accepted by the parent/adult student within 10 days after it is made; and

c. a court or due process hearing officer finds that the relief obtained by the parent/adult student is not more favorable to the parent/adult student than the offer of settlement.

B. Exception to Prohibition of Attorneys' Fees

An award of attorneys' fees and related costs may be made to a parent/adult student who is a prevailing party and who was substantially justified in rejecting the district's settlement offer.

C. Reduction in Amount of Attorneys' Fees

A court may reduce an award for attorneys' fees if:

1. during the course of the action or proceeding, the parent/adult student unreasonably extended the final resolution;

2. the amount of the award unreasonably exceeds the prevailing rate in the community for similar services by attorneys of reasonably comparable skills, reputation, and experience;

3. the time spent and legal services rendered were excessive considering the nature of the action; or

4. the attorney representing the parent/adult student did not provide the information required in a due process hearing request. Refer to the information specified in Section 10B, page 117 of this chapter.

D. Exception to Reduction of Attorneys' Fees

The amount of attorneys' fees will not be reduced if the court finds that the district or SDE unreasonably extended the final resolution of the action or proceeding.

Section 13. Student Discipline

Students with disabilities who are subject to disciplinary actions by a district are entitled to all of the same due process rights to afforded students without disabilities under Idaho Code 33-205. In addition to these rights, the IDEA provides special education rights and additional discipline procedures when removing a student with a disability from his or her current educational placement. However, these additional protections do not prevent school personnel from maintaining a safe environment conducive to learning that is critical for all students.

Even though Idaho Code allows school personnel to "temporarily suspend" students for up to 20 school days, all students with disabilities who have been suspended or expelled for more than 10 school days in a school year retain the right to FAPE. Students with disabilities have a long history of poor postschool outcomes. Retaining the right to FAPE will enhance their opportunity for success in the future.

A. General Discipline Rules for Students with Disabilities

The general rules pertaining to the discipline of special education students are as follows:

1. Under Idaho Code 33-205, all students are entitled to certain procedural safeguards, or rights, before they can be suspended or expelled from school for any period of time.

2. School personnel may suspend a special education student for up to 10 school days in a school year using the same procedures that are used for other students. Services may cease during this period.

3. In many cases, school personnel and a parent/adult student are able to reach an agreement on how to respond to a student's behavior. IDEA discipline procedures and limitations come into play only when an agreement cannot be reached.

4. Any time school personnel consider unilaterally removing a special education student for more than 10 school days in a school year, additional procedures and limitations required by the IDEA must be followed. In brief summary, the district must:

    a. Provide FAPE for removals that exceed 10 cumulative school days in a school year.

    b. Conduct a functional behavior assessment and/or develop a behavior intervention plan.

    c. Notify the parent/adult student of the disciplinary action to be taken.

    d. Determine whether a series of removals (of 10 or fewer school days each) constitutes a change of placement.

    e. Conduct a manifestation determination for a single removal of more than 10 consecutive school days or for a series of removals that constitutes a change of placement.

f. A student who is eligible for special education cannot be expelled, suspended for more than 10 consecutive school days, or subjected to a change of placement for behavior that is a manifestation of his or her disability.

5. Under certain conditions, school personnel or a hearing officer may order placement of a special education student in an IAES for not more than 45 calendar days, if nondisabled students would be placed in an alternative education setting or would be excluded from school for the same disciplinary infraction.

6. At any time, school personnel may seek to obtain a court order to remove a special education student from school or the current placement.

7. Students who are not currently eligible for special education may be entitled to an evaluation or other IDEA rights if the district had knowledge that the student met IDEA eligibility prior to the behavior and the parent/adult student asserts this right.

B. Discipline Options

Schools are encouraged to address student misconduct through appropriate schoolwide discipline policies, instructional and/or related services, including conflict management, behavior management strategies, and measures such as study carrels, timeouts, and restriction of privileges. If a student has behavior problems that interfere with his or her learning or the learning of others, the IEP team must consider whether strategies, including positive behavior intervention strategies, and supports are needed to address the behavior. If the IEP team determines that such services are needed, they must be included in the IEP and be implemented.

The IDEA regulations limit the amount of time that a student with a disability who has violated a school code of conduct can be removed from his or her placement. These limitations come into play only when the district is not able to work out an appropriate placement for the student with the parent/adult student.

When a student engages in misbehavior that violates the district's disciplinary policy, the district may use the following options:

1. Short-term Suspensions by School Personnel

   School personnel can order the removal of a student with a disability from the current educational placement for not more than 10 consecutive school days for any violation of any school rules or code of conduct. Short-term suspensions can be applied only to the extent they would be applied to students without disabilities.

   In accordance with Idaho Code, a school principal has authority to order a disciplinary suspension for no more than 5 school days. The disciplinary suspension can be extended for up to 5 additional school days by the superintendent. The district does not need to provide services during this period of suspensions when they accumulate to no more than 10 school days per school year.

"Suspension" is defined by *Black's Law Dictionary* as a "temporary stop, a temporary delay, interruption, or cessation." "School day" is defined by federal regulations as "any day, including a partial day, that students are in school for instructional purposes."

2. Additional Short-term Suspensions

School personnel can order additional removals of not more than 10 consecutive school days in the same school year for separate incidents of misconduct with the following two conditions:

a. Additional short-term suspensions must not constitute a pattern of removals resulting in a change of placement. A series of removals becomes a change of placement when they cumulate to more than 10 school days in a school year and factors such as the length of the removal, the proximity of the removals to one another, and the total amount of time the student is removed indicate a pattern of removal. The Office for Civil Rights and courts have used these factors as a multifactored test to consider whether a change of placement has occurred.

b. After a student with a disability has been removed for more than 10 cumulative school days in the same school year, the district must provide appropriate services during any subsequent days of removal in that school year. School personnel, in consultation with the student's special education teacher, will determine the extent of services that are necessary to enable the student to appropriately progress in the general curriculum and advance toward achieving his or her IEP goals during the period of these short-term suspensions.

3. Up to 45-Day IAES Ordered by School Personnel

In addition to a short-term suspension for up to 10 school days, the superintendent or designee can order a change in the student's placement to an IAES, for not more than 45 calendar days (to the same extent nondisabled students would be placed in an IAES or removed from school), if:

a. the student carries or possesses a weapon to school or a school function; or

b. the student knowingly possesses, carries, or uses illicit drugs, or sells or solicits the sale of a controlled substance while at school or a school function.

The IAES must be determined by the IEP team and meet the requirements listed in Section 13C, page 128 of this chapter. For definitions of a controlled substance, illicit drugs, and weapons, see Appendix 7I, page A-173.

4. Up to 45-Day IAES Ordered by Hearing Officer

School personnel may request an expedited due process hearing to ask a hearing officer to place a student in an IAES for up to 45 calendar days. School personnel may make such a request:

a. as an initial disciplinary action;

b. to follow a short-term suspension by school personnel; or

c. to follow a placement change by school personnel in an IAES for weapons, drugs, or controlled substance violations.

A hearing officer may place a student with a disability in an appropriate IAES for not more than 45 calendar days if he or she determines the district has demonstrated, by substantial evidence (which is defined as "beyond more likely than not"), that maintaining the current placement is substantially likely to result in injury to the student or others.

In making the determination, the hearing officer must:

a. determine that the IAES proposed by school personnel in consultation with the student's special education teacher or the IEP team is appropriate;

b. consider the appropriateness of the current placement; and

c. consider whether the district has made reasonable efforts to minimize the risk of harm in the current placement, including the use of supplementary aids and services.

C. FAPE Requirements in an IAES

An IAES is determined by the IEP team and must:

1. be selected to enable the student to continue to participate in the general education curriculum, although in another setting;

2. allow the student to continue to receive services and modifications included in the current IEP that will enable the student to meet his or her goals; and

3. include services and modifications to address the behavior that are designed to prevent the behavior from recurring.

D. IEP Team Meeting to Review Behavior

Either before, or within 10 business days after school personnel suspend a student for more than 10 cumulative school days in a school year, or whenever a disciplinary change of placement occurs, the IEP team must do one of the following:

1. If the district did not conduct a functional behavior assessment and implement an intervention plan before the behavior that resulted in removals for more than 10 school days in a school year or any disciplinary change of placement, then the IEP team will meet to develop an assessment plan. Upon completing any assessments, the IEP team will meet again to develop and implement appropriate behavior interventions to address the behavior.

2. If a student with a disability already has a behavior intervention plan, the IEP team will meet to review the plan and its implementation to determine if modifications are necessary.

Subsequently, if the student with a disability who has a behavior intervention plan is suspended again but the removal does not constitute a disciplinary change of placement, each member of the IEP team will review the intervention plan and its implementation. When one or more of the IEP team members reviewing the behavior plan believe that modifications are necessary, an IEP team meeting will be conducted to develop a new behavior intervention plan, if appropriate.

"Business day" means "Monday through Friday, except federal and state holidays."

E. Manifestation Determination

If any of the disciplinary actions listed in 1-4 below are contemplated, the parent and adult student must be notified of the action to be taken and provided with a *Special Education Rights Statement* not later than the date on which the decision to take the disciplinary action is made.

In addition, a manifestation determination review must be made at an IEP meeting when any of the following disciplinary actions are contemplated or taken:

1. Placement in an IAES is ordered for violations involving weapons or drugs.

2. A hearing officer is asked to order a change in placement because the district believes the current placement is substantially likely to result in injury to the student or others.

3. A student is removed for more than 10 consecutive school days.

4. A change of placement occurs because of a series of removals constituting a pattern.

The parent and adult student must be invited to an IEP team meeting that is convened for a manifestation determination review. The manifestation determination review must be made immediately, if possible, but not later than 10 school days after the date on which the decision was made to take disciplinary action. The review may be conducted at the same IEP meeting that is convened to develop a functional behavior assessment plan and/or behavior intervention plan.

A manifestation determination involves a review of the relationship between the student's disability and the behavior subject to the disciplinary action. The IEP team may determine that a student's behavior was not a manifestation of the student's disability only if the IEP team:

1. first considers all relevant information regarding the behavior subject to disciplinary action, including:
    a. evaluation and diagnostic results, including data or other relevant information supplied by the parent/adult student;
    b. observations of the student; and
    c. the student's IEP and placement.
2. and then determines if all of the following are true:
    a. The student's IEP and placement were appropriate in relation to the behavior subject to disciplinary action.
    b. The special education services, supplementary aids and services, and behavior intervention strategies consistent with the student's IEP and placement were provided.
    c. The student's disability did not impair his or her ability to understand the impact and consequences of the behavior.
    d. The student's disability did not impair his or her ability to control the behavior.

If the IEP team determines that one or more of the standards listed above were not met, the behavior must be considered a manifestation of the student's disability and a change of placement may not occur unless the parent/adult student and the district agree on a placement change. When deficiencies in the IEP, its implementation, or placement are found, the district must take immediate steps to remedy the deficiencies.

If the IEP team determines that a student's behavior is not a manifestation of the disability, the district will have the burden of proof to demonstrate that the standards listed above were met if the parent/adult student appeals the manifestation determination decision in a hearing.

F. Behavior Not a Manifestation of Disability

After reviewing the student's behavior, if the IEP team determines the behavior was not a manifestation of the student's disability, the same disciplinary procedures applicable to students without disabilities, including long-term suspension or expulsion, may be applied to the student with a disability. The district will forward special education and disciplinary records for consideration to the board of trustees, which makes the final decision regarding the disciplinary action.

Even if the disciplinary action is to suspend or expel, the following provisions must be met:

1. Educational services cannot completely cease for more than 10 school days in a school year. FAPE, which is defined as services to the extent necessary to enable the student with a disability to appropriately progress in the general education curriculum and advance toward achieving the goals set out in his or her IEP, must be provided.

2. An IEP team must convene to develop an IEP that specifies what special education and related services will be provided during the period of suspension or expulsion.

G. Parent/Adult Student Request for an Expedited Hearing

The parent/adult student may request an expedited due process hearing if he or she:

1. disagrees with a determination that the student's behavior was not a manifestation of the student's disability; or

2. disagrees with any decision of the IEP team regarding a change of placement during a disciplinary proceeding.

A decision of a hearing officer in an expedited hearing may be appealed to federal or state district court.

See Sections 10 and 11, pages 117 and 122 of this chapter for an explanation of regular and expedited due process hearing rights and procedures.

H. Placement During an Expedited Hearing

If a parent/adult student requests a due process hearing to challenge an IAES or the manifestation determination, the student must "stay put" during the pendency of the hearing. In relation to disciplinary proceedings, unless the parent/adult student and the district agree otherwise, stay put means:

1. The student will remain in the IAES until the time line for that placement expires or the hearing officer renders a decision, whichever occurs first.

2. Upon expiration of the IAES placement time line, the student will be placed in the setting he or she was in prior to the IAES. However, if school personnel maintain that it is dangerous for the student to return to that placement, the district can request an expedited hearing to continue the IAES for up to an additional 45 calendar days. This procedure may be repeated as necessary.

If the hearing officer finds for the parent/adult student, the change of placement cannot occur and the IEP team will need to determine the extent of services that are appropriate to meet the student's individual needs and to address the student's behavior. If the hearing officer finds for the district, the district may use the same disciplinary procedures, including expulsion, as it uses for any other student, except that FAPE must be provided according to the requirements listed in subsection F.

I. Court Injunctions

At any time, school officials may seek to obtain a court order to remove a student who is eligible for special education from school or to change the student's current educational placement if they believe that maintaining the student in the current educational placement is substantially likely to result in injury to that student or others.

J. Protections for Students Not Yet Eligible for Special Education

A student who has not been determined eligible for special education and who has engaged in behavior that violated any rule or code of conduct of the district, may assert any of the protections of the IDEA if the district had knowledge that the student was a student with a disability before the behavior that precipitated the disciplinary action.

1. Basis of knowledge

   With limited exceptions, which are described in item 2 below, the district will be deemed to have knowledge that an individual is a student with a disability if any one of the following is true:

   a. The parent/adult student has expressed concern to district personnel that the student is in need of special education and related services. The concern must be expressed in writing unless the parent/adult student is unable to write or has a disability which prevents a written statement.

   b. The behavior or performance of the student demonstrates the need for special education and/or related services.

   c. The parent/adult student has requested an evaluation of the student.

   d. The teacher of the student, or other district personnel, have expressed concern about the behavior or performance of the student to the director of special education or to other district personnel in accordance with the district's established Child Find System or special education referral system.

2. No basis of knowledge

   The district does not have knowledge if, upon receiving information:

   a. an evaluation was conducted and a determination was made that the student did not have a disability; or

   b. the evaluation team determined that an evaluation was not necessary and written notice of that decision was provided to the parent and adult student.

If the district did not have a basis of knowledge that a student was a student with a disability prior to taking disciplinary measures, the student is subjected to the same disciplinary measures applied to all other students who engage in comparable behaviors.

K. Parent/Adult Student Request for Evaluation of Disciplined Student

If a request for an evaluation of a student who is not currently eligible for special education is made during the time period in which the student is subjected to disciplinary measures, the evaluation will be conducted in an expedited manner. Pending the results of the evaluation, the student will remain in the educational placement determined by district officials, which can include suspension or expulsion without educational services.

If the student is subsequently determined eligible for special education, the district will:

1. Convene an IEP team meeting to develop an IEP.

2. Conduct a manifestation determination review.

   a. If the behavior is found to be related to the student's disability, the disciplinary action must be set aside and the student must be provided appropriate educational services in the LRE.

   b. If the behavior is not related to the student's disability, the student is subject to the disciplinary placement that had been determined but is still entitled to receive FAPE. FAPE is determined by the IEP team and is defined as services to the extent necessary to enable the student to appropriately progress in the general curriculum and advance toward achieving his or her IEP goals.

If the student is not determined to be eligible for special education, he or she will be subject to the same disciplinary actions for all students.

L. Referrals to and Action by Law Enforcement and Judicial Authorities

1. The district may report a crime committed by a student with a disability to appropriate authorities. The IDEA does not prevent state law enforcement or judicial authorities from exercising their responsibilities, with regard to the application of federal and state law, for crimes committed by a student with a disability.

2. If the district reports a crime, it will ensure that copies of the special education and disciplinary records of the student are given to the appropriate law enforcement authorities for their consideration, to the extent the release of records is permitted by FERPA. Generally, the release of records requires consent, but exceptions are listed in Section 4C, page 105 of this chapter.

M. Transfer of Discipline Records

1. When the district initiates disciplinary proceedings applicable to all students, the special education and disciplinary records of students with disabilities must be given to authorized school personnel for their consideration in making the final determination regarding the disciplinary action.

2. Idaho Code 33-209 requires that whenever a student transfers to a new school and a school record contains information concerning violent or disruptive behavior or disciplinary action involving a student, this information will be included in the transfer of records to the new school. The transmission of the student's record must include both the student's current IEP and any current or previous disciplinary action taken. This information will be contained in a sealed envelope marked to indicate the confidential nature of the contents and addressed to the principal or other administrative officer of the school.

N. Suspension and Expulsion Rates

The SDE is required to examine data to determine if significant discrepancies are occurring in the rate of long-term suspensions and expulsions of students with disabilities:

1. among districts in the state; and

2. compared to such rates for nondisabled students within the district.

See Chapter 9, Section 3, page 158 for more information on suspension and expulsion rates.

Chapter 8

PRIVATE, HOME, AND CHARTER SCHOOL STUDENTS

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Chapter 8
PRIVATE, HOME, AND CHARTER SCHOOL STUDENTS

LEGAL CITATIONS

Abbreviations Used:
Code of Federal Regulations (C.F.R.)
Idaho Administrative Procedures Act (IDAPA)

Section 1. Child Find and Annual Count for Nonpublic School Students
A. 34 C.F.R. § 300.125(a)(1)
34 C.F.R. § 300.451
IDAPA 08.02.03.109.02.d.
B. 34 C.F.R. § 453(b)

Section 2. Definitions of Private School Placements
A. 34 C.F.R. § 300.400
B. 34 C.F.R. § 300.450
C. 34 C.F.R. § 300.403

Section 3. Students Placed by the District
34 C.F.R. § 300.401
34 C.F.R. § 300.402
34 C.F.R. § 300.349
IDAPA 08.02.03.109.02.e.

Section 4. Students Voluntarily Enrolled by Parents
A. 34 C.F.R. § 300.453
B. 34 C.F.R. § 300.462
34 C.F.R. § 300.458
34 C.F.R. § 300.459
C. 34 C.F.R. § 300.454
D. 34 C.F.R. § 300.455
34 C.F.R. § 300.456
E. 34 C.F.R. § 300.455(b)(2)
34 C.F.R. § 300.346(a)(2)
34 C.F.R. § 300.347(a-b)
F. 34 C.F.R. § 300.457

Section 5. Dual Enrollment by Parents
Idaho Code § 33-203

Section 6. Unilateral Placement by Parents
A. 34 C.F.R. § 300.403(a-c)
B. 34 C.F.R. § 300.403(d-e)

Section 7. Charter Schools
A. Idaho Code § 33-5204
B. 34 C.F.R. § 300.312(a)
34 C.F.R. § 300.312(c)
C. Idaho Code § 33-5205(3)(q)
Idaho Code § 33-5210(2)
34 C.F.R. § 300.241(a)
34 C.F.R. § 300.312(c)
IDAPA 08.02.03.109.02.c.
D. Idaho Code § 33-5206(1)
Idaho Code § 33-5205(3)(g)
E. Idaho Code § 5208
34 C.F.R. § 300.241(b)

Chapter 8

PRIVATE, HOME, AND CHARTER SCHOOL STUDENTS

Prior to the Individuals with Disabilities Education Act (IDEA) Amendments of 1997, a district's responsibility for services to private school students was unclear and a frequent subject of litigation. This chapter incorporates the following:

- new statutory and regulatory language, which states that students who are voluntarily enrolled in private or home schools are not entitled to all of the same services as public school students;
- district responsibilities for special education students under Idaho's dual enrollment law;
- the legal requirements that come into play when a parent unilaterally enrolls his or her child in a private school and asks the district for reimbursement of these costs; and
- the responsibilities of charter schools and districts for special education services to students enrolled in charter schools.

Section 1. Child Find and Annual Count for Nonpublic School Students

A. Child Find

The district must have an ongoing Child Find System to locate, identify, and evaluate all students with disabilities residing within its jurisdiction, ages 3 through 21. The requirements of Child Find and evaluation in this manual apply to students who are enrolled in home and private schools, including parochial schools, and reside in the district's jurisdiction (even though they may attend a private school that is located in another district). Child Find activities for private and home school students will be comparable to Child Find activities for public school students, which includes the evaluation process. The district will consult with appropriate representatives of private and home school students with disabilities to determine how to carry out the Child Find responsibilities and activities. The period of time between consultations with appropriate representatives will be determined by the district.

B. Annual Count of Eligible Students

The district must conduct an annual count on December 1 of the number of private and home school children with disabilities who are eligible for special education as determined by an evaluation conducted under Child Find requirements. This count will be used to determine the amount of funds the district must expend providing special education and related services to private and home school students in the next school year (see Section 4, page 139). The district will consult with representatives of private school students to determine how to conduct the count.

Section 2. Definitions of Private School Placements

In order to describe the district's responsibilities for serving private school students, it is helpful to distinguish three separate ways that students are placed in private schools. These are defined by who enrolls or places the student in a private school and why.

A. Definition of District Placement

At times, the district may place a student in a private school or facility to fulfill its obligation to provide a free appropriate public education (FAPE). These placements are always made by an individualized education program (IEP) team in accordance with the requirements of Section 3, page 138 of this chapter.

B. Definition of Voluntary Enrollment by a Parent

A parent may choose to enroll his or her child in a private or home school for a variety of personal reasons, such as to obtain a religious education, to attend a school with a particular philosophy or curriculum, or because the parent is dissatisfied with the services offered or provided by the district. This is considered a voluntary enrollment. See Section 4, page 139 and Section 5, page 145 of this chapter for district responsibilities.

C. Definition of Unilateral Placement by a Parent

A parent may withdraw a student with a disability from a public school and then enroll the student in a private school because he or she believes the district has not provided FAPE in a timely manner. This is considered a unilateral placement. All students who are unilaterally placed are also voluntarily enrolled in a private school. Specific information regarding a parent request for reimbursement of costs of a unilateral placement is included in Section 6, page 146 of this chapter.

Section 3. Students Placed by the District

When the district refers or places a student with disabilities in a private school or facility, the district must ensure the following:

1. Special education and related services are provided in accordance with an IEP.

2. A representative of the private school or facility attends or participates in the meeting to develop the IEP.

3. Services are provided at no cost to the parent, including reimbursement to the parent for transportation and other costs associated with participation at an IEP meeting conducted in a geographical area outside the jurisdiction of the district.

4. The placement in the private school or facility is the least restrictive environment (LRE) for that student.

5. The student is afforded the same rights as students with disabilities who attend public schools. The parent is also afforded the same rights as parents of students attending public schools.

In accordance with federal and state law, special education programs in private schools and facilities must be approved by the State Department of Education's (SDE) Bureau of Special Education. The district must ensure a program is approved prior to placing a student in that school or facility.

At the discretion of the district, once a student with a disability enters a private school or a facility, meetings to review and revise the IEP may be initiated and conducted by the private school or facility. If the private school conducts a meeting, the district must ensure that the parent and a district representative are involved in and agree to any proposed changes in the IEP before the changes are implemented.

Section 4. Students Voluntarily Enrolled by Parents

A. Minimum Expenditure Requirement

The district must make provisions for students with disabilities who are eligible for special education and are voluntarily enrolled in private or home schools by their parents to participate in Part B services in accordance with the following expenditure requirements of IDEA.

1. The district's minimum expenditure requirement for private and home school students will be calculated annually not later than October 15. The district will make a good faith effort to expend this amount of funds not later than September 30 of the following year to provide special education and/or related services to eligible private and home school students, ages 3 through 21, and for preschool children, ages 3 through 5, using the following formula:

   ________ Enter the number of 3-through-21-year-old students (for the preschool calculation, use ages 3 through 5) who were eligible for special education and enrolled in private and home schools the previous December 1st.

Eligibility must be based on an evaluation that was completed within 3 years of the count date. Include students who resided in the district and attended private schools located both in and out of the district. Include all eligible private and home school students, even those who did not receive or are not receiving any services from the district.

÷ Divide by:

________ The total number of 3-through-21-year-old students (for the preschool calculation, use ages 3 through 5) who were eligible for special education and who resided in the district on the previous December 1. This total number includes all students on the December 1 Child Count plus any eligible private and home school students who were not on the count because they did not receive services from the district.

x Multiply the resulting fraction by:

________ The total amount of the district's Part B School Age award for the current school year (for the preschool calculation, use the Part B Preschool award). This step must be repeated if the district initially performs the calculation using the projected rather than the actual award.

= The result is the total amount of funds the district must spend on providing special education and related services to 3-through-21-year-old private and home school students (for preschool, ages 3 through 5) who are eligible for special education.

2. The district must maintain records to demonstrate that it has determined its private and home school expenditure requirement and that it has budgeted/expended sufficient funds to satisfy that requirement. These funds can be from federal, state, local or a combination of sources, so long as the services are provided in accordance with this section.

3. The cost of any special education or related service, such as direct service, consultation, equipment, materials, or transportation may be used to determine that the district has satisfied its expenditure requirement for private and home school students with disabilities.

4. The cost of conducting evaluations and engaging in other Child Find activities cannot be used to determine that the district has satisfied its expenditure requirement.

5. The district is not prohibited by the IDEA from providing services to private or home school students with disabilities in excess of the amounts calculated in item 1 above.

The district may find it necessary to expend funds in excess of these amounts when necessary to meet obligations under Idaho's dual enrollment law.

B. Expenditure Guidelines

1. The district may place equipment and supplies that are purchased with Part B funds in a private school for a period of time needed for a program for eligible students with disabilities. However, the district must:

   a. retain title and exercise continuing administrative control over all property and equipment that is purchased with Part B funds;

   b. ensure that it is used only for Part B purposes; and

   c. ensure that it can be removed without remodeling the private school.

   The district must remove equipment and supplies if necessary to prevent unauthorized use.

2. Part B funds must not be used to:

   a. finance the existing level of instruction in the private school or otherwise benefit the private school;

   b. meet the needs of the private school; or

   c. meet the general needs of students enrolled in the private school.

3. Part B funds must not be used for repairs, minor remodeling, or construction of private school facilities.

4. If it is possible for classes to include students enrolled in both public and private schools, then the classes must not be organized separately on the basis of school enrollment or religion.

5. The district must not directly appropriate any funds to private schools controlled by any church, sectarian, or religious denomination. See Appendix 8B, page A-221 for a copy of the Idaho Constitution, Article IX, Section 5.

C. Determination of Services

No private or home school student with a disability has an individual right to receive some or all of the special education and/or related services that the student would receive if enrolled in the district. Decisions about the services that will be provided must be made in accordance with the following requirements:

1. Prior to a decision on how to meet its expenditure requirements (see Section 4, page 139), the district must engage in a genuine, meaningful, and timely consultation with appropriate representatives of private and home school students with disabilities, regardless of whether the private school is located in or out of the district. Appropriate representatives could be parents and/or private school administrators.

2. In light of the amount of funds to be spent by the district, the consultation must consider the number of private and home school students with disabilities, their needs, and their location to determine:

    a. what services will be provided;

    b. which students will receive services;

    c. how and where services will be provided; and

    d. how the provided services will be evaluated.

3. The district will make the final decisions after allowing the private and home school representatives to express their views regarding each decision to be made mentioned in item 2 above. Annual consultation is not required to make these decisions. The period between consultations is determined by the district based on changing circumstances within the district, such as significant changes in the total amount of funds to be expended and/or the numbers and location of private and home school students with disabilities.

D. Provision of Services

1. Services will be provided at a public school building or another nonsectarian site determined by the district in consultation with appropriate representatives of private school students.

2. Services provided to private and home school students with disabilities must be provided by personnel meeting the same standards as personnel providing services in the public schools.

3. Private and home school students with disabilities may receive a different amount of services than public students with disabilities, and they are not entitled to every service or the amount of service that they would receive if enrolled in public school. This means that it is possible for a private or home school student to receive only a related service or piece of equipment.

4. Any services the district provides to a private or home school student must be in accordance with a services plan (SP). The SP must describe the specific special education and related services that will be provided to the student in light of the determinations that have been made by the district in C2, page 142.

5. To the extent appropriate, the district must initiate and conduct meetings to develop, review, and revise SPs in accordance with the following IEP requirements:

    a. An SP must be in effect at the beginning of each school year and accessible to each person responsible for its implementation.

    b. Meetings must be held to review and revise SPs at least annually to address any lack of student progress toward goals and in the general education curriculum.

    c. SP team members include the same members as an IEP team to the extent appropriate. The district will ensure that a representative of the private or home school attends these meetings or participates by some other means.

    d. A parent must be invited to SP meetings a reasonable time before the meeting. The invitation must indicate the purpose, time, and location of the meeting. The parent must be informed that he or she may bring other persons knowledgeable about the student to the meeting. A copy of the SP will be given to the parent.

    e. The team developing the SP will consider the student's strengths and results of the most recent evaluations. The general education teacher should participate in the development, review, and revision of the SP.

6. If necessary for a private or home school student to benefit from or participate in the services the district has selected to provide, the district must provide transportation from the student's school or home to the site where services will be provided. The district must take the student back to either the private school or the home, depending on the timing of the services. In this sense, transportation is not a related services but a means of making the services offered accessible. Transportation costs may be included in the district's expenditure requirement, but the district should consult with the private and home school representatives to ensure that services are provided at sites that would not require significant transportation costs. The district is not required to transport the student from home to the private school.

E. Content of a Services Plan

Given the services that the district has selected to provide, the SP, to the extent appropriate, must meet the following content requirements for an IEP:

1. a statement of the student's present levels of educational performance, including how the disability affects the student's involvement and progress in the general curriculum; and, for preschool students, how the disability affects participation in appropriate activities;

2. a statement of measurable annual goals, including benchmarks/objectives;

3. a statement of the special education or related services and supplementary aids and services to be provided to the student, or on behalf of the student, and a statement of program modifications or supports for school personnel that will be provided for the student;

4. the projected date for the beginning of services and modifications, and the anticipated frequency, location, and duration of those services and modifications; and

5. a statement of how the student's parent will be regularly informed of progress toward the annual goals, including the extent to which that progress is sufficient to enable the student to achieve the goals by the end of the SP time period.

Requirements for including information on the SP regarding LRE considerations, participation in statewide and districtwide assessments, transition services, and other considerations—such as behavior, Braille, communication, and assistive technology needs—would generally depend on what services were identified to be provided to private and home school students by the district. See Appendix 10 for forms that can be used for a *Services Plan*.

F. Dispute Resolution

1. The due process hearing procedures described in Chapter 7, Section 10, are applicable to allegations that a district has failed to meet its requirements for Child Find of private and home school students, which include conducting evaluations and determining eligibility. The Child Find and evaluation requirements are described in Section 1 of this chapter and Chapters 2 and 3.

2. The following due process procedures do not apply to allegations that the district has failed to meet the expenditure, determination of services, and provision of services requirements:

    a. provision of the *Special Education Rights Statement*;

    b. parent/adult student consent;

    c. mediation;

    d. due process hearing;

   e. civil action;

   f. attorneys' fees;

   g. stay put; and

   h. surrogate parents.

3. Allegations that the district or State Department of Education (SDE) has failed to meet its expenditure, determination of services, or provision of services requirements, may be pursued by filing a complaint under the IDEA complaint procedures administered by the SDE and described in Chapter 7, Section 9, page 115.

Students who are voluntarily enrolled in private or home schools also have the opportunity to receive services under Idaho's dual enrollment law. See Section 5 below for more information. The district's obligations under dual enrollment may be greater than the obligation imposed by the IDEA.

Section 5. Dual Enrollment by Parents

According to Idaho Code, parents of private, home school, and charter school students "shall be allowed to enroll the student in a regular public school for dual enrollment purposes." The district must allow private, home school, and charter school students who are eligible for special education and who are otherwise qualified to participate in school programs under the dual enrollment law to:

1. enroll in general education courses under the same criteria and conditions as nondisabled students; and/or

2. have the opportunity to receive special education and/or related services at the public school site. Private and home school students must receive services in conformance with an SP. Charter school students must receive services in conformance with an IEP. See Section 7, page 148 of this chapter for further information about charter school students with disabilities.

The dual enrollment statute does not establish an entitlement for students with disabilities to receive special education and related services at the private school or home school site or to receive services that would not be provided if the student was enrolled in public school.

The reporting of attendance for private and home school students in the district is allowed under dual enrollment. If a student attends at least 2.5 hours per week without rounding hours, he or she must be included in the weekly aggregate attendance. The average daily attendance (A.D.A.) is computed as .5 if the aggregate weekly hours are 2.5 or greater but less than 4.0 hours. When there are 4.0 hours or greater, divide by 4 to get the A.D.A.

Attendance for a student attending classes at both a charter school and a traditional public school in the district will be reported only by the school where the student spends the majority of time. The school that reports attendance may count the instructional time at both schools for meeting the half-day A.D.A. minimum (2.5 hours) or full-day A.D.A. minimum (4.0 hours). The school that reports attendance, and therefore receives state special education funding based on attendance, may agree to pay a fee to the school that does not report attendance to cover educational costs.

Eligible students with an SP or IEP may be included on the district's regular December 1 Child Count for the purpose of generating federal special education funds.

See Appendix 8A, page 217 for a copy of the dual enrollment law.

Section 6. Unilateral Placement by Parents

A. General Provisions for Reimbursement

1. The district is required to make FAPE available to all eligible students with disabilities. If parents do not access FAPE, then the district is required to make provisions for private school students to receive Part B services consistent with Section 4 of this chapter.

2. The district is not required to pay for costs of tuition, special education, or related services at a private school or facility for a student who was unilaterally placed there by a parent if the district made FAPE available to the student in a timely manner. One way for the district to document that FAPE was available is to have developed or reviewed an IEP for a student who has been evaluated and found eligible. If a parent disagrees with the availability of FAPE and there is a question about financial responsibility, the parent may request a due process hearing.

3. A court or hearing officer may order the district to reimburse a parent for the costs of unilaterally placing his or her child in a private school if it determines that the district had not made FAPE available to the eligible student in a timely manner prior to the time the parent enrolled the student in the private school.

4. A hearing officer may find a student's placement in a private school or facility by a parent appropriate even if the private school or facility does not meet state standards that apply to district placements.

B. Denial or Reduction of Reimbursement

A court or hearing officer may reduce or deny reimbursement to a parent for the cost of a unilateral placement under the following circumstances:

1. Prior to removal of the student from the public school, the district informed the parent of its intent to evaluate the student (including a statement of the purpose of the evaluation that was appropriate and reasonable), but the parent did not make the student available for the evaluation.

2. A judicial decision finds unreasonableness with respect to the actions taken by the parent.

3. The parent did not inform the district that he or she rejected the placement proposed by the district to provide FAPE and did not state his or her concerns and intent to enroll the student in a private school. This notification by the parent must be provided to:

    a. the IEP team at the most recent IEP meeting prior to removing the student from the public school; or

    b. the district in writing at least 10 business days (including any holidays that occur on a business day) prior to removing the student from public school.

Reimbursement will not be reduced or denied if:

1. the district did not notify the parent of his or her obligation to provide the notice set forth in item 3 above;

2. the school prevented the parent from providing notice;

3. the parent cannot write in English or has a disability that prevents a written statement; or

4. the district's proposed placement would likely result in physical or serious emotional harm to the student.

Section 7. Charter Schools

A. Definition of Charter Schools

In Idaho, a charter school is a public school authorized by Chapter 52, Title 33, Idaho Code. It operates independently as a nonprofit, publicly funded, nonsectarian school within the district. It is bound by the conditions of its charter with the district, all federal laws, and Idaho Code.

B. Charter School Student and Parent Rights

A charter school student is a public school student. Students with disabilities who attend charter schools and their parents have all of the rights under the IDEA, Section 504 of the Rehabilitation Act (Section 504), and the Americans with Disabilities Act (ADA) as students who attend other public schools.

Federal law requires the district to provide students with disabilities educational choices comparable to those offered to students without disabilities. One of these choices is the opportunity to attend a charter school. Idaho law specifically states that charter schools cannot discriminate against any student on any basis prohibited by federal law including, but not limited to, the IDEA, Section 504, and the ADA.

C. Responsibility for Special Education

1. The district is ultimately responsible to ensure that the requirements of the IDEA are met with respect to students attending charter schools. Compliance with the IDEA, Part B, is required regardless of whether the public charter school receives any Part B funds. The district must do one of the following:

   a. Conduct Child Find activities, including evaluations, and provide special education and related services to students enrolled in charter schools located in the district, as well as meet all other IDEA requirements with respect to charter school students.

   b. Ensure that any charter school petition it approves contains sufficient information, plans, procedures, and budgets to ensure that the charter school will conduct Child Find activities, including evaluations, and will provide special education and related services. The district must also ensure that the charter school actually carries out these responsibilities by overseeing the charter school's implementation of the IDEA by working in collaboration with the charter school where possible and/or revoking the charter school petition as a last resort when necessary.

   c. Implement a combination of agreed upon activities from a and b above.

2. The district must have information on file with the SDE to demonstrate that students with disabilities who attend charter schools located within the district will receive

special education and related services from either the district or the charter school and that Part B funds will be available for that purpose.

3. The district will ensure that its charter schools will participate in all monitoring activities conducted by the SDE.

4. As a public school, each charter school in the district shares in the obligation to accept and appropriately serve students with disabilities. The Idaho charter school law does not specify how special education services will be provided to eligible students enrolled in a charter school. The law does require each petition for a charter to describe the manner by which special education and related services will be provided to eligible students with disabilities.

D. Essential Components of a Special Education Program

Prior to approving a petition for a charter school, the board of trustees will ensure the petition includes:

1. Nondiscriminatory enrollment procedures.

2. Adequate plans, policies, procedures, contractual or other arrangements, and budget to ensure that students with disabilities attending the charter school will receive special education and related services that meet all the requirements of the IDEA. The petition should describe how the charter school or district will:

    a. conduct Child Find activities and evaluations;

    b. develop, review, and revise IEPs;

    c. provide special education and related services identified on student IEPs using qualified personnel;

    d. meet LRE requirements;

    e. implement IDEA discipline procedures; and

    f. protect student and parent rights.

3. Provisions to employ special education and related services professionals who are appropriately licensed and/or certificated for the duties they are assigned. This could include any combination of the following:

    a. full- or part-time professionals employed by the charter school to serve special education students;

   b. contracts with private individuals or agencies; or

   c. a contract or other arrangements to have the district provide special education services.

4. A professional development plan for training needs of special education personnel as well as general education teachers in order to meet the needs of students with disabilities who are enrolled in the charter school.

5. A plan that ensures access to charter school programs, as required under the ADA. This plan may include the actual location of the school, classrooms, and settings within the classrooms to permit access by students with disabilities.

6. A transportation plan for special education students who may, because of the nature of their disabilities, be entitled to specialized transportation as a related service, even if the charter school does not provide transportation to other students.

7. Provisions for notifying the district in the event that a formal complaint or due process hearing request is filed by or on behalf of a charter school student.

E. State Funding

The SDE will make apportionment payments (from state general funds) to each charter school based on attendance figures. The SDE will pay state funds directly to charter schools using the funding formula described in state law. A charter school may also be eligible for the following funds:

1. state funds for special education students who live in licensed group, foster, or personal care services homes under the provision of Idaho Code 33-1002B;

2. district-to-agency contract funds under a provision of Idaho Code 33-2004;

3. funds to serve high numbers of students with emotional disturbance under Idaho Code 33-2005; and

4. state enhancements funding sources such as the LRE funds, which are to be negotiated between the district and the charter school.

F. Federal Funds

The SDE disburses federal flow-through funds to districts. A charter school is eligible for a proportionate share of the district's Part B funds if it adopts and implements approved policies and procedures for special education and provides an assurance to the district that funds will be used in accordance with Part B allowable uses. The district will allocate Part B funds to an eligible charter school unless the district and charter school agree to the provision of services of comparable value. The approved charter will identify whether the district will provide funding or services of comparable value.

1. The amount of funds or comparable services will generally be equal to the per child amount the district is allocated from the SDE in the current year multiplied by the charter school's December 1 child count from the previous school year.

2. Under certain circumstances the district must allocate Part B funds to an eligible charter school based on the number of special education students enrolled and served in the current school year.

    a. The district will allocate funds to a charter school within 5 months of opening or significantly expanding its enrollment if:
        - the charter school notifies the district at least 120 days before it opens or significantly expands its enrollment due to a significant event that is unlikely to occur on a regular basis, such as the addition of one or more grades or educational programs in major curriculum areas; and
        - the charter school actually opens or significantly expands its enrollment prior to February 1.

    b. The district will allocate funds to the charter school using the same per child amount that it receives from the SDE. At a minimum, the district will allocate amounts as follows:
        - If the opening or expansion occurs prior to November 1, the charter school will be allocated funds in the current school year based on the current school year's December 1 child count.
        - If the opening or expansion occurs after November 1 but before February 1, the charter school will be allocated a pro-rata share of funds in the current school year based on the number of enrolled special education students with active IEPs 30 days after the opening or expansion. The pro-rata share will be the number of days the charter school will be open or expanded, divided by the number of days in the school year, multiplied by the number of special education students.
        - If the opening or expansion occurs on or after February 1, the charter school will be allocated funds in the following school year based on the following school year's December 1 child count.

3. A charter school that is required to expend an excessive amount of its budget on special education services because of the needs of students enrolled in the charter school may apply directly to the SDE for federal discretionary funds to partially offset these costs.

Chapter 9
IMPROVING RESULTS

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Chapter 9

PERSONNEL

Legal Citations

Abbreviations Used:

Individuals with Disabilities Education Act (IDEA)
Code of Federal Regulations (C.F.R.)
Idaho Administrative Procedures Act (IDAPA)

Section 1. Performance Goals and Indicators

A. 34 C.F.R. § 300.137
B. 34 C.F.R. § 300.137
C. 34 C.F.R. § 300.220
34 C.F.R. § 300.240
IDAPA 08.02.03.109.02.h.

Section 2. Statewide and Districtwide Assessment Reporting

A. 34 C.F.R. § 300.138
B. 34 C.F.R. § 300.139

Section 3. Suspension and Expulsion Rates

A. 34 C.F.R. § 300.146
Section 618(a)(1)(vii) IDEA
34 C.F.R. § 300.260(g)
B. 34 C.F.R. § 300.220
34 C.F.R. § 300.240
34 C.F.R. § 300.146
IDAPA 08.02.03.109.02.h.

Section 4. Disproportionality

A. 34 C.F.R. § 300.755
Idaho's Performance Goals and Indicators
B. 34 C.F.R. § 300.755
34 C.F.R. § 300.220
34 C.F.R. § 300.240
IDAPA 08.02.03.109.02.b.
IDAPA 08.02.03.109.02.h.

Section 5. Personnel

34 C.F.R. § 300.221
34 C.F.R. § 300.136
IDAPA 08.02.03.109.02.f.
B. 34 C.F.R. § 300.136(g)
IDAPA 08.02.03.109.02.f.
C. 34 C.F.R. § 300.136(f)
34 C.F.R. § 300.221(a)
D. 34 C.F.R. § 300.136(f)
IDAPA 08.02.03.109.02.g.
E. 34 C.F.R. § 300.221
IDAPA 08.02.02.060.03.a.

Chapter 9

IMPROVING RESULTS

Over the past ten years there has been an increased demand for accountability to improve the educational results of all students, including students with disabilities. However, very limited data is available on educational results for students with disabilities. This chapter reflects the changes in the Individuals with Disabilities Education Act (IDEA) Amendments of 1997 that focus on improving educational outcomes, analyzing and reporting data to the public, and ensuring that personnel who work with students with disabilities are prepared to meet their unique needs.

Section 1. Performance Goals and Indicators

The provisions of the IDEA require states to establish goals and indicators for students with disabilities related to their performance on statewide assessments, graduation rates, and dropout rates. To the maximum extent possible, the goals for students with disabilities must be consistent with the goals and standards established by the state for all students. The State Department of Education (SDE) is required to inform the public and the U.S. Department of Education of the progress the state has made in meeting those goals at least every two years.

Idaho's performance goals were created by a representative task force in the fall of 1998. The task force reviewed and aligned its work with goals set for all students by the legislature, State Board of Education and SDE. In addition to setting goals for students with disabilities in the required areas of statewide assessment results, graduation rates, and drop-out rates, the task force also chose to address participation in assessments, postschool outcomes, suspension and expulsion rates, and the quality of personnel.

A. Idaho's Performance Goals and Indicators

Idaho's performance goals have indicators that can be used as reference points for measuring progress toward the goals, similar to the way benchmarks/objectives can be used to measure progress toward individualized educational program (IEP) goals. Idaho's performance goals and indicators intend to:

1. include all special education students in the statewide assessment program;
2. consistently improve and sustain a high level of performance on statewide assessments by special education students;
3. decrease the drop-out rate for special education students;
4. increase the graduation rate for special education students;

5. improve postschool outcomes for special education students by increasing the percentage of students who are employed or who participate in postsecondary education;

6. decrease suspension and expulsion rates for special education students; and

7. increase the quality of personnel working with students with disabilities.

B. SDE Responsibility

The SDE is required to collect, review, and analyze data on an annual basis to determine if the state is making adequate progress toward its performance goals and indicators. Based on this analysis, the SDE will revise its state improvement plan, as necessary, to address any lack of progress.

C. District Responsibility

Progress on the state's performance goals will only occur if districts are making efforts in these same areas. The IDEA requires districts to adopt policies that are consistent with the SDE's performance goals and indicators. Therefore, on an annual basis and as part of the self-evaluation requirements of the SDE's monitoring system, the district must:

1. ensure the data that it collects and reports to the SDE regarding special education students and personnel is accurate;

2. use data-based decision-making procedures to review and analyze district-level data to determine if the district is making progress toward the state's performance goals and indicators; and

3. develop, implement, and revise district improvement plans as necessary to make progress toward performance goals and indicators by:

    a. using a planning process and a document that is specifically designed for special education; or

    b. participating in a broader district strategic planning process and then incorporating strategies or activities to address special education performance goals and indicators into the district's overall strategic plan.

Further information on performance goals and indicators will be included in a future Appendix 9A.

Section 2. Statewide and Districtwide Assessment Reporting

A. SDE Responsibility

The SDE is required to make the following information available to the public on request:

1. the number of students with disabilities participating in regular assessments;
2. the number of students participating in the alternate assessment; and
3. the performance results of students with disabilities if doing so is statistically sound and does not disclose results identifiable to individual students.

Whenever the SDE reports information to the public on the assessment of nondisabled students, it must include the information in 1-3 above, as well as:

1. aggregated data that includes the performance of students with disabilities together with all other students; and
2. disaggregated data on the performance of students with disabilities.

B. District Responsibility

The district is accountable for appropriately including all students in statewide and districtwide assessments and for accurately reporting the results for all students. Therefore, on an annual basis and as part of the self-evaluation requirements of the SDE's monitoring system, the district must:

1. ensure the data that it collects and reports to the SDE is accurate;
2. use data-based decision-making procedures to review and analyze district-level data to determine if the district is making progress in including all special education students in the statewide assessment program and in consistently improving the level of performance by students with disabilities; and
3. develop, implement, and revise district improvement plans as necessary to make progress.

Section 3. Suspension and Expulsion Rates

A. SDE Responsibility

The SDE is required to collect and analyze discipline data from districts to determine if significant discrepancies are occurring in the rate of long-term suspensions and expulsions of students with disabilities:

1. among districts in the state; and
2. compared to such rates for nondisabled students within the district.

The SDE is also required to collect data concerning the number of students with disabilities who are removed to interim alternative educational settings (IAESs) including the acts precipitating those removals. This data must be collected by race, ethnicity, and disability category.

B. District Responsibility

On an annual basis and as part of the self-evaluation requirements of the SDE's monitoring system, the district must:

1. ensure the suspension and expulsion data that it collects and reports to the SDE is accurate;
2. use data-based decision-making procedures to review and analyze district-level discipline data to determine if significant discrepancies are occurring between the long-term suspension and expulsion rates for students with and without disabilities; and
3. develop, implement, and revise district improvement plans, policies, procedures, and practices as necessary to ensure that they are in compliance with the IDEA in relation to the following:
    a. the development and implementation of IEPs;
    b. the use of behavioral interventions; and
    c. procedural safeguards.

Although not required by the IDEA, the district may also want to determine if significant discrepancies are occurring in suspensions, expulsions, and the placement of students with disabilities in IAESs based on race, ethnicity, or disability category. The Office for Civil Rights reviews such data.

Section 4. Disproportionality

A. SDE Responsibility

The IDEA requires the SDE to collect and analyze data to determine if significant disproportionality based on race is occurring in the state with respect to:

1. the percentage of students in each particular racial group who are identified as eligible for special education compared to the percentage of all students enrolled in the district from that same racial group;
2. the percentage of students in each racial group who are identified under particular categories of disability compared to the percentage of all students enrolled in the district from that same racial group; and
3. the percentage of students in each racial group who are placed in particular special education settings compared to the percentage of all students enrolled in the district from that same racial group.

B. District Responsibility

On an annual basis and as part of the self-evaluation requirements of the SDE's monitoring system, the district must:

1. ensure the data that it collects and reports to the SDE is accurate;
2. use data-based decision-making procedures to review and analyze district-level data on race to determine if significant disproportionality exists; and
3. review and, if appropriate, revise the district improvement plans, policies, procedures, and practices used in the identification or placement of students to prevent disproportionality based on race.

Section 5. Personnel

The district must ensure that personnel working with students with disabilities are fully licensed or certificated, whether they are employed *or* contracted by the district.

Public school personnel must meet the appropriate certification requirements for position assignments. Complete certification standards for personnel providing special education or related services may be found in the handbook titled *Certification Standards for Professional School Personnel.* This handbook is available from the Teacher Certification Section of the SDE.

The lists that follow are general guidelines only. They do not include every possible position or licensing situation. For more information, call the SDE's Teacher Certification Section at 208-332-6800.

A. Certification and Licensure

1. The following special education and related services positions require individuals who are employed by a district to be certificated by the SDE. They may also be required to meet additional licensure requirements.

    a. audiologist;

    b. consulting teacher;

    c. counselor;

    d. director of special education;

    e. early childhood special education teacher;

    f. school psychologist;

    g. special education teacher;

    h. speech-language pathologist; and

    i. supervisor/coordinator of special education.

2. Some special education service providers need both licensure in their area of expertise and certification from the SDE.

    a. School nurses are certificated by the SDE and licensed by the State Board of Nursing.

    b. School social workers are certificated by the SDE and licensed by the Bureau of Occupational Licenses.

3. Some special education service providers must meet the licensure or certification requirements in their respective professions, but certification from the SDE is not required.

    a. Occupational therapists and physical therapists are licensed by the State Board of Medicine.

b. Vocational education teachers are certificated by the Idaho Division of Professional-Technical Education.

c. Vocational rehabilitation counselors must meet national standards for Certified Rehabilitation Counseling (CRC) to be employed by the Idaho Division of Vocational Rehabilitation.

B. Shortage of Personnel

If there is a shortage of qualified personnel, the district must make an ongoing good-faith effort to recruit and hire the most appropriate and adequately trained individuals available; these individuals must be making satisfactory progress toward completing applicable course work necessary to meet Idaho's highest entry-level standards for a profession or discipline within 3 years.

A letter of authorization (LOA) will satisfy IDEA personnel requirements and allow the district to request emergency approval when a professional position cannot be filled. The request is made to the SDE's Teacher Certification Section for a professional to serve in a position for which that person is not fully certificated. If granted, an LOA is valid for 1 year. Approval of the LOA assures that steps and time lines have been established consistent with the IDEA for the retraining or hiring of personnel to meet appropriate professional requirements in the state. An LOA can be renewed annually upon completion of 9 semester credit hours or more per year in order to complete the appropriate certification within 3 years.

The SDE Certification Office may issue a Consultant Specialist approval at the request of the district to a highly and uniquely qualified individual. The approval is limited to the applicant's district and is valid for 1 year. The district will not request Consultant Specialist approval for a special education or related services position if a qualified candidate is available. Further, the district must hire the most qualified candidate available who is making satisfactory progress toward full certification within 3 years. The district must maintain documentation that the individual has established and is following a planned course of study that will result in full certification within 3 years.

C. Supervision of Staff

A teacher and/or a related service provider with appropriate certification or licensure who has been informed of his or her specific responsibilities related to a student's IEP has the primary responsibility to ensure the appropriate implementation of the IEP. The district has policies and procedures for the supervision and evaluation of all certificated/licensed or contracted employees.

The certificated/licensed teacher and/or related service provider will generally be responsible for the supervision of all paraprofessionals, assistants, and aides who provide direct services to students with disabilities. All paraprofessionals, assistants, and aides should have a supervision plan developed by the certificated or licensed professional.

D. Paraprofessionals, Assistants, and Aides

The district may employ paraprofessionals, assistants, and aides who are appropriately trained and supervised to assist in the provision of special education and related services to students with disabilities if they meet standards established by the SDE.

Further information on paraprofessional requirements will be included in a future Appendix 9B.

E. Professional Development Plan

Under the IDEA, the district must have a personnel development plan. The plan must include how the district will ensure that all personnel who work with students with disabilities have the skills and knowledge necessary to meet the needs of those students. This includes professional and paraprofessional personnel who provide or supervise special education, general education, or related services. The district may develop a separate plan to address these IDEA requirements, or may incorporate these requirements into the district professional development plan that is required under the Administrative Rules of the State Board of Education.

To the extent the district determines it is appropriate, professional and paraprofessional personnel can use the technical assistance and training activities offered by the SDE to fulfill part of these requirements.

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Legal Citations

Abbreviations Used:

Code of Federal Regulations (C.F.R.)
Education Department General Administrative Regulations (EDGAR)
General Education Provisions Act (GEPA)

Section 1. Documentation Requirements

34 C.F.R. § 81 (GEPA)
34 C.F.R. § 76 (EDGAR)

Chapter 10

FORMS

Section 1. Documentation Requirements

The district must maintain appropriate documentation in student files to demonstrate that the requirements of the Individuals with Disabilities Education Act (IDEA) are being implemented.

The district must be able to verify that students who are included in the district's annual child count for federal funding purposes were eligible for special education and received services from the district. Documentation is also important should the district become involved in a formal complaint or due process hearing. Finally, well-maintained files are important to ensure that student needs are met.

The district may develop and use any forms as long as they include the components described in Chapters 1 through 9 of this manual. Appendix 10 includes sample forms, which may be used by the district. See page A-225 for a complete list of forms and their locations.

Appendix 1

Appendix Contents

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Appendix 1B. The Americans with Disabilities Act of 1990 . . . . A-7

Appendix 1C. Comparison of the IDEA, Section 504, and the ADA A-11

Note: Appendices in the *Special Education Manual* contain a variety of technical assistance information, including sample letters and forms, suggestions for dealing with special education issues, and copies of various laws. The appendices should be viewed as additional resources to Chapters 1-10 in the *Special Education Manual*. The district is *not required* to adopt as policy or procedure any of the appendices in this manual to receive IDEA funding.

Appendix 1A

SECTION 504 OF THE REHABILITATION ACT OF 1973

Section 1. Introduction

Section 504 of the Rehabilitation Act of 1973 (Section 504) prohibits discrimination against persons with disabilities by any organization or institution that receives federal financial assistance. Because the district receives federal funds, it must comply with the provisions outlined in Section 504. Grant recipients must provide access and opportunities to qualified individuals with disabilities who wish to participate in their services, activities, or programs. Discrimination occurs when an institution fails or refuses to provide an opportunity or a service, benefit, or privilege to a qualified individual with a disability.

Section 504, like the Americans with Disabilities Act of 1990 (ADA), is a broad civil rights statute, and the two laws have many similar or identical provisions. Section 504 affects a wide range of educational practices, including:

1. the provision of services to students;
2. physical accessibility;
3. preparation of self-evaluations and transition plans;
4. employment; and
5. compliance procedures.

Section 2. Definition

Section 504 states that "an individual with a disability is one who has a physical or mental impairment that substantially limits one or more 'major life activities,' one who has a record of such an impairment, or is regarded as having such an impairment."

1. **"Major life activities"** include functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.
2. A **"physical or mental impairment"** has been defined as:
    a. any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory; speech organs; cardiovascular; reproductive; digestive; genito-urinary; hermic and lymphatic; skin; and endocrine; or

   b. any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

3. **"Has a record of such an impairment"** means anyone who "has a history of, or has been classified as having, a mental or physical impairment that substantially limits one or more major life activities."

4. **"Is regarded as having an impairment"** means anyone who:

   a. "has a physical or mental impairment that does not substantially limit major life activities but is treated by a recipient as constituting such a limitation";

   b. "has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment"; or

   c. "has none of the impairments defined but is treated by a recipient as having such an impairment."

It is important to note that certain conditions are excluded from these definitions of disability. For example, Section 504 specifically excludes persons who currently use illegal drugs. In addition, under both Section 504 and the ADA, individuals with disabilities are not protected unless they are also "qualified" to participate in an activity.

Under Section 504, a "qualified" student with a disability, with regard to elementary and secondary education, is defined as:

1. a person with a disability who is of an age during which nondisabled persons are provided education; and

2. a person with a disability who is of any age during which it is mandatory under state law to provide elementary or secondary educational services to persons with disabilities or to whom a state is required to provide a free appropriate public education under the Individuals with Disabilities Education Act (IDEA).

Depending on the case, individuals may be "qualified" simply by their status as a student or a parent. Educators must consider whether adjustments can be made in policies, practices, or procedures so that students can participate in services, activities, or programs.

Section 3. Administrative Requirements

Administrative requirements under Section 504 are broad. The law requires that the district:

1. Prepare a self-evaluation that will determine if the district's current services, policies, and practices discriminate against individuals with disabilities and modify those that do.
2. Designate an individual to oversee compliance.
3. Develop a transition plan if structural changes are needed to achieve program accessibility.
4. Develop a grievance procedure to handle complaints of discrimination based on disability.

The U.S. Department of Education regulations for Section 504 require that students with disabilities be provided with a free appropriate public education (FAPE). These regulations also require identification, evaluation, provision of appropriate services, and procedural safeguards in every public school in the United States. In addition, Section 504 covers all students who meet the definition of having a disability as defined in the IDEA. However, not all individuals who have been determined to have a disability under Section 504 will be considered disabled under the IDEA.

If it is determined that a student is disabled under Section 504, a team must:

1. Evaluate the student.
2. Develop an accommodation plan for any needed service.
    a. Although there is no requirement that the plan be written, a district would be wise to develop a written plan to document all accommodations that would be provided for the student.
    b. The plan may also include related services even though the student may not need, or qualify for, special education.
3. Implement the plan for the delivery of that service.

Section 4. Complaint and Enforcement

The Office for Civil Rights (OCR) is responsible for assuring that educational institutions comply with Section 504. Enforcement agencies encourage informal mediation and voluntary compliance. Complaints related to providing an appropriate public education for students under Section 504 should be addressed to:

Regional Civil Rights Director
Office for Civil Rights, Region X
U.S. Department of Education
915 Second Avenue, Room 3310
Seattle, WA 98174-1099
(206) 220-7900
For speech/hearing impaired: (206) 442-4542
Fax: (206) 220-7887
E-mail: ocr_seattle@ed.gov

Within Idaho, inquiries can be made to:

Idaho State Department of Education
Bureau of Special Education
P.O. Box 83720
Boise, Idaho 83720-0027
(208) 332-6910
For speech/hearing impaired: 1-800-377-3529
Fax: (208) 334-4664

Appendix 1B
THE AMERICANS WITH DISABILITIES ACT OF 1990

Section 1. Introduction

The Americans with Disabilities Act of 1990 (ADA) is a comprehensive civil rights law barring discrimination against individuals with disabilities. The ADA reinforces or expands rights guaranteed to individuals with disabilities by:

1. the Individuals with Disabilities Education Act Amendments of 1997 (IDEA);
2. Section 504 of the Rehabilitation Act of 1973 (Section 504); and
3. the Carl D. Perkins Vocational and Applied Technology Education Act of 1990 (Perkins Act).

A. Key Principles

The ADA is based on five key principles that have been viewed historically as civil rights for individuals with disabilities:

1. a focus on the individual;
2. integration;
3. equal opportunity;
4. physical accessibility; and
5. the provision of reasonable accommodation and auxiliary aids and services.

B. Effect on Schools

Because the ADA is a civil rights law, it preempts all local, state, and federal laws that grant lesser rights to individuals with disabilities. The ADA does not provide funding to carry out its mandates. Nevertheless, a wide range of public and private institutions, including educational institutions, must comply with the ADA.

The ADA does not directly address schools. Therefore, educators must apply ADA principles to school and training settings without direct guidance. Educators who already understand and comply with requirements in Section 504 or the IDEA, or with special population requirements in the Perkins Act, are well on their way to complying with the ADA. However, the ADA goes beyond the other three laws. Despite the lack of references to schools, the ADA affects every aspect of the educational process. The ADA mandates cover three broad areas:

1. **Services:** The ADA affects integration, program accessibility, safety, communication, the provision of assistive aids and services, and preparation of a district self-evaluation for compliance.

2. **Physical accessibility:** The ADA affects accessibility audits, removal of barriers both inside and outside a facility, alterations or new construction, and preparation of transition plans.

3. **Employment:** The ADA affects the posting of job notices, setting of job qualifications, interviewing, testing of applicants, hiring, and the provision of reasonable accommodations and training, among other areas.

Section 2. Definition

A. Individual with a Disability

As stated in the ADA, "an individual with a disability is one who has a physical or mental impairment that substantially limits one or more major life activities, one who has a record of such an impairment, or is regarded as having such an impairment." This definition of an individual with a disability is identical to the definition used in Section 504.

B. "Qualified" Individuals

Under both the ADA and Section 504, individuals with disabilities are not protected unless they also are "qualified" to participate in an activity. Depending on the case, people may be "qualified" simply by their status as a student or a parent. Under the ADA, schools must assist individuals with disabilities who are qualified to participate in school programs from which they might otherwise be excluded. Educators must realize the ADA's mandate has several implications:

1. Before turning away a student with a disability as unqualified to participate in a school program, educators must consider whether adjustments can be made in policies, practices, or procedures so the student can participate.

2. Educators must ensure that qualifications are relevant.

3. Qualifications must be applied consistently to all individuals.

The ADA does not provide educators with a simple, limited set of requirements to facilitate compliance. The broad, generic nature of the standards highlights the need for educators to use a case-by-case approach in responding to the needs of students with disabilities.

Section 3. Administrative Requirements

The ADA contains five broad administrative requirements for public institutions. These requirements include the following:

1. The district must prepare a self-evaluation that will determine if its current services, policies, and practices discriminate against individuals with disabilities and must modify those that do. For one free copy of *Compliance with the Americans with Disabilities Act: A Self-Evaluation Guide for Public Elementary and Secondary Schools* call 1-800-949-4232. Additional copies can be purchased from the Government Printing Office by calling 1-800-512-1800.

2. An individual in the district must be designated to oversee compliance.

3. A transition plan must be developed if structural changes are needed to achieve program accessibility.

4. A grievance procedure must be developed to handle complaints of discrimination based on disability.

5. The district must inform the public about the ADA.

Section 4. Complaints and Enforcement

Schools are expected to comply with the ADA and Section 504 even though federal agencies will not conduct general compliance monitoring. Instead, the appropriate agencies will investigate specific complaints.

The ADA's enforcement procedures build on those under Section 505 of the Rehabilitation Act of 1973, which also details compliance procedures for Section 504. Section 504, in turn, incorporates by reference the enforcement procedures found in Title VI of the Civil Rights Act of 1964. Educators who are familiar with enforcement procedures under Section 504 can expect the same procedures under the ADA.

For more information, or answers to questions regarding the ADA, contact:

Idaho Task Force on the ADA
1311 West Jefferson
Boise, Idaho 83702
(208) 344-5590
Fax: 344-5563
E-mail: idtaskfrc@aol.com

Information in this appendix was taken in part from *The Educator's Guide to The Americans with Disabilities Act,* published by the American Vocational Association.

Appendix 1C
COMPARISON OF THE IDEA, SECTION 504 AND THE ADA

Section 1. General Provisions

IDEA	504	ADA
The Individuals with Disabilities Education Act (IDEA) is a federal education law that provides grants to assist states in providing special education services. Parts A and B of the IDEA affect public schools. Participation by states is voluntary. Once a state agrees to participate it must ensure that all students with disabilities in the state receive a free appropriate public education. Failure to meet IDEA requirements results in a loss of IDEA funds—over $20 million annually in Idaho. Part C provides services for infants and toddlers and is administered by the Department of Health and Welfare in Idaho. Part D provides funds for State Improvement Grants, research, personnel development, and other discretionary programs.	The Rehabilitation Act of 1973 is a comprehensive federal law that provides for state vocational rehabilitation services, commissions for the blind, independent living centers, a National Council on Disability, and a client assistance program. Section 504 is a portion of the Rehabilitation Act that prohibits discrimination on the basis of disability. Individuals with disabilities cannot be excluded from or denied the benefits of any program or activity receiving federal financial assistance. Section 504 is mandatory. No additional funding is provided. Failure to comply could result in potential loss of all federal funds.	The Americans with Disabilities Act (ADA) is a broad civil rights law that was passed in 1990. Titles I and II affect public schools. Title I prohibits discrimination in employment if an organization employs 15 or more individuals. Title II deals with public services, including schools. Title III protects the rights of individuals with disabilities in privately operated public settings (such as day cares, restaurants, and private schools—as long as they are not religious-operated). Title IV requires accessible telecommunications. Title V includes miscellaneous provisions. Participation is mandatory. No funding is provided. Failure to comply could result in the award of compensatory and punitive damages.

Section 2. Student Eligibility

IDEA	504	ADA
Children ages 3 through 21 are eligible for Part B if they have a disability *and* need special education. The law lists specific disability categories including autism, deaf-blindness, developmental delay, emotional disturbance, hearing impairment, mental retardation, orthopedic impairment, other health impairment, speech or language impairment, specific learning disability, traumatic brain injury, and visual impairment. The law does not require the district to label a student by category of disability to provide services. A team of qualified professionals and the parent (the evaluation team) determines eligibility. Infants and toddlers, birth through 2 years of age, with development delays are eligible under Part C of the IDEA.	504 automatically protects children who are eligible for Part B. In addition, all age ranges of individuals who have, have had, or are regarded as having a physical or mental impairment that substantially limits a major life activity are protected. Generally, districts need to be concerned only with students who currently have a disability. Life activities include walking, seeing, hearing, speaking, breathing, learning, working, caring for oneself and performing manual tasks. The life activity that is affected does not have to be learning for a student to have 504 protections at school. To be protected, an individual must be "otherwise qualified" for the program or activity. Eligibility is determined by a team of people (it is a best practice to include parents on the team, but it is not required).	Same as 504. A public entity may not impose eligibility criteria for participation in its programs or activities that screen out, or tend to screen out, individuals with disabilities, unless necessary for legitimate safety reasons.

Section 3. Educational Rights

IDEA	504	ADA
Eligible students are entitled to a free appropriate public education (FAPE). FAPE includes special education and related services. *Free* means at public expense. *Appropriate* means in conformance with an IEP that meets legal requirements. *Public* means provided under public direction and supervision. *Education* includes preschool, elementary and secondary, but not higher education. FAPE is further defined by case law as an IEP that is developed in accordance with the law's procedures and that is reasonably calculated to ensure educational benefit. The benefit must be more than trivial. The district must provide related services that are necessary to assist the student to benefit from special education. If a student does not need special education, he or she is not entitled to related services. In Idaho, speech-language therapy is defined as special education and can be a stand-alone service.	Many people think 504 only requires the provision of reasonable accommodations. This is true in employment and higher education, but not in public schools (elementary and secondary). Eligible preschool, elementary, and secondary students are entitled to FAPE. FAPE is defined by 504 as regular *or* special education *and* related aids and services to meet an eligible student's needs as adequately as the needs of nondisabled students are met. In practice, if a student requires special education, he or she is usually served under the IDEA. 504 requires that a plan be implemented for eligible students. The plan does not have to be written, but districts are advised to use a written accommodation plan to document the accommodations that have been determined necessary and will be provided. An IEP may be used. The provision of related services may be required even though a student does not need special education.	Does not require the provision of FAPE to eligible students. However, the ADA provides a layer of protections in combination with Section 504 actions. Title II of the ADA includes a general provision that prohibits discrimination and denial of participation on the basis of disability. It also provides for equality of opportunity to participate in or benefit from programs and services. The ADA requires reasonable accommodations for students with disabilities.

Section 4. Evaluations

IDEA	504	ADA
Written notice and consent are required before an evaluation or reevaluation is conducted. Reevaluations are required every 3 years. A parent/adult student can obtain an independent educational evaluation at public expense if he or she disagrees with the district's evaluation, unless the district goes to a due process hearing.	Notice is required but consent is not. Consent is a good practice. Periodic reevaluations are required; 3 years is a best practice. There are no provisions for independent educational evaluations.	Does not delineate specific evaluation requirements but reasonable accommodations must be provided for entrance exams.

Section 5. Least Restrictive Environment

IDEA	504	ADA
Districts must ensure a continuum of alternative placements exists for students with disabilities. A student cannot be removed from the general education classroom (or curriculum) unless the nature or severity of his or her disability is such that the student cannot be satisfactorily educated in the general education classroom with supplementary aids and services.	504 has the same requirements for a continuum of alternative placements as the IDEA and presumes that students are educated in the general education classroom if possible. 504 does not mention the general education curriculum.	Individuals with disabilities must be integrated to the maximum extent appropriate. Separate programs are permitted where necessary to ensure equal opportunity, but exclusion from the regular program is prohibited. Reasonable accommodations may be required in the regular program even when a special program for individuals with disabilities is provided. The existence of a special program may affect the extent of accommodations that must be provided in the regular program.
Placement decisions must be made annually by the IEP team.	Placement decisions are made annually by a group of knowledgeable people who draw on information from a variety of sources.	

Section 6. Procedural Safeguards

IDEA	504	ADA
A parent and an adult student must receive notice when the district proposes or refuses to initiate or change identification, evaluation, placement, or the provision of FAPE. The notice, which must be written, includes specific components. It is required for any change in placement. Written consent is required for all assessments and initial placement in special education.	A parent must receive notice when the district proposes or refuses to initiate or change identification, evaluation, placement, or the provision of FAPE. The notice does not have to be written, but it is a good practice. Notice is only required for significant changes in placement. It is a good practice to provide notice for all changes in placement.	Does not delineate specific procedural safeguards.
Elaborate and complex procedures are set forth in the law for the discipline of students with disabilities. A student cannot be expelled for behavior that is a manifestation of his or her disability. Educational services for a student who is expelled for behavior that is not a manifestation of his or her disability may *not* cease.	Expulsion and long-term or repeated suspensions are considered significant changes in placement and invoke specific procedural safeguards. A student cannot be expelled for behavior that is a manifestation of his or her disability. Educational services for a student who is expelled for behavior that is not a manifestation of his or her disability may cease.	

Section 7. Resolving Disagreements

IDEA	504	ADA
No provisions for a compliance coordinator or a grievance procedure.	If a district employs more than 15 people it must designate a 504 compliance coordinator and have a grievance procedure for parents, students, and staff.	Internal grievance procedures are required for entities that employ more than 50 people.
A parent/adult student or the district may request mediation. It is voluntary and provided by the State Department of Education (SDE).	No provisions regarding mediation.	No provisions for mediation.
Any individual may file a formal complaint with the SDE.	Formal complaints may be filed with the Office for Civil Rights (OCR).	Complaints can be filed with the OCR or the Department of Justice. The OCR investigates complaints under 504 and the ADA.
A parent/adult student or the district may request a due process hearing, which has a 45-day time line for issuance of a decision. Decisions may be appealed to civil court. Administrative remedies must be exhausted before filing a suit in civil court.	Districts must have a hearing procedure, which can be the same as the IDEA procedure but does not have to be. Parents can file a case in civil court without exhausting administrative remedies.	No administrative hearing provision exists under the ADA, but individuals can file a suit in federal district court.

Appendix 2

Appendix Contents

Appendix 2A. Suggested Modifications and Instructional Interventions A-21

Appendix 2B. Suggestions for Delivering Sensitive Information to Parents A-33

Appendix 2C. Sample Child Find Announcement A-35

Note: Appendices in the *Special Education Manual* contain a variety of technical assistance information, including sample letters and forms, suggestions for dealing with special education issues, and copies of various laws. The appendices should be viewed as additional resources to Chapters 1-10 in the *Special Education Manual*. The district is *not required* to adopt as policy or procedure any of the appendices in this manual to receive IDEA funding.

Appendix 2A

SUGGESTED MODIFICATIONS AND INSTRUCTIONAL INTERVENTIONS

This guide provides educators and families with suggested interventions and modifications. These can be used for students who need assistance in handwriting, visual integration, spelling, reading, math, written expression, and daily organization. Many students have difficulties in one or more of these skill areas, and frequently difficulties in these skill areas impact one another. To provide the most effective and appropriate interventions and modifications, it is important to consider the preferences of the individual who is in need of assistance. It is essential that the least restrictive intervention be considered before more intrusive alternatives are explored.

Section 1. Skill Areas

This section lists the skill areas in which students may have difficulty.

A. Handwriting

Difficulty in acquiring adequate handwriting skills could be characterized by the following:

1. inability to execute efficiently the motor movements required to write or to copy written letters or forms;
2. inability to transfer the input of visual information to the output of fine motor movement;
3. limitations in other visual-motor functions and activities requiring motor and spatial judgments;
4. difficulty writing numbers, aligning them properly, and understanding concepts related to space, distance, and time; or
5. difficulty holding standard writing utensils and/or stabilizing writing surfaces.

B. Visual Integration

Visual integration involves receiving information through the sense of sight and processing or integrating the received information. Students who have visual integration difficulties may have problems in the following areas:

1. visual figure-ground—seeing a specific image within a competing background;
2. visual sequencing—seeing things in the correct order;

3. visual discrimination—seeing the difference between two similar objects; or
4. depth perception—perceiving how near of far away an object is.

C. Spelling, Grammar, and Punctuation

Spelling simultaneously requires auditory and visual discrimination, memory sequentialization, analysis and synthesis, and integration. Punctuation is a system of symbols that are inserted into written material to clarify its meaning. Using correct grammar requires that a person simultaneously integrate the meaning of words, parts of speech, types of phrases or clauses, and grammatical rules.

D. Reading

Difficulty in acquiring reading skills could be characterized by the following:

1. difficulty learning the components of words and sentences;
2. difficulty writing and spelling;
3. spatial directional confusion;
4. difficulty differentiating letters that look similar;
5. reversals of letters and numbers;
6. inaccurate visual and/or auditory feedback;
7. word-by-word oral reading;
8. misreading known words;
9. ability to recognize words in isolation but not in context; or
10. difficulty understanding what is read (comprehension).

E. Math

Math is a logical structure starting with the construction of simple relationships and then progressing to more complex tasks. Success with beginning math requires the ability to form and remember associations, understand basic relationships, and make generalizations. Success with more advanced math requires mastery in the skills of computation and problem solving. Students who have difficulty with math may have problems in the following areas:

1. memorizing basic facts;

2. organizing problems on paper;
3. solving problems;
4. identifying and selecting appropriate strategies;
5. organizing information to be learned;
6. monitoring problem-solving processes;
7. evaluating problems for accuracy; or
8. generalizing strategies to appropriate situations.

F. Written Expression

Written expression is a process that requires planning, organization, drafting, editing, and revising skills. Students who have difficulty with written expression may have problems in the following areas:

1. generating ideas;
2. retrieving words;
3. organizing thoughts into a coherent story;
4. getting started with writing a story;
5. revising a story; or
6. using vocabulary.

G. Daily Organization

Maintaining daily organization can be a crucial key in the academic success of many people. Students who have difficulty in this area may need assistance with the following:

1. remembering schedules and appointments;
2. remembering assignments;
3. organizing assignments;

4. meeting deadlines and being punctual;
5. organizing work space;
6. study and work skills; or
7. time management.

Section 2. Suggestions for Specific Modifications

Modifications for Handwriting		
Method	Material	Technology
peer support different kinds of paper different colors of paper different line spacing/line colors tape paper to the desk chalkboard practice tracing exercises talk through letter formation walk through letter formation write letters in the air dot-to-dot adapt tests to fill in the blanks multiple choice or true/false provide additional time shorten assignments photocopy notes, etc. different writing implements paper position student position avoid using short pencils peer dictation cross-age tutoring	peer support pencil holders/grips large/primary pencils jumbo crayons markers grease pencils acetate sheets transparency markers paper stabilizers arm stabilizer/arm guide dycem for positioning tactile letters stencils/templates clipboards tracing paper electric eraser correction tape/pen/fluid rubber name stamp other rubber stamps bingo blotter to make selections labels/stickers with names automatic number stamp highlighters easel slant board/wedge personal chalkboard	Typewriter: peer support typing/keyboarding instruction positioning device positioning student arm stabilization wrist rests movable/stationary custom key guard correction tape/pen/fluid Word Processors: peer support typing/keyboarding instruction portable/stationary preferences lightweight options downlinking to computer positioning device positioning student arm stabilization wrist rests movable/stationary custom key guard cross-age tutoring

Modifications for Visual Integration

Method	Material	Technology
enlarge worksheets enlarge reading material worksheets free of blotches/streaks change font on worksheets/tests double space worksheets/tests wide margins on worksheets different colors of paper change lighting different line spacing/color darker lines on paper raised lines on paper limit amount of info on a page finger-for-spacing strategy peer support multimodality instruction	magnifying glass magnifying bars page magnifiers slant boards easel paper holders workstation copy holder stencils rulers colored acetate sheets colored stickers for visual cues Post-it tape flags peer support highlighter word window line marker antiglare shield on pages	mini book-light other additional lighting Typewriter: positioning device positioning student key labels enlarge text output change fonts lighting issues colored paper correction tape/pen/fluid typing/keyboarding instruction peer support cross-age tutoring Word Processor: positioning device positioning student key labels portable/stationary preferences lightweight options downlinking to computer enlarge text change font colored paper peer support cross-age tutoring typing/keyboarding instruction

Modifications for Spelling, Grammar, and Punctuation

Method	Material	Technology
allow more time for completion reduce number of words paired word associations self-verbalization imagery mnemonic devices multimodality instruction peer support cross-age tutoring "word wall" of common words spelling-word booklet problem-word lists word banks	flash cards magnetic board and letters flannel board and letters rubber word stamps rubber letter stamps peer support highlighters personal chalkboard pocket dictionary 3-ring notebook dictionary	tape recorder electronic pocket spell checker electronic dictionary Language Master Speaking Language Master Spelling Ace/Spell Master Word Processor: spell checker peer support cross-age tutoring typing/keyboarding instruction

Modifications for Reading

Method	Material	Technology
extra time for completion shorten assignments simplify text highlight key concepts provide chapter outlines story frame before, during, after echo reading positive approach story mapping vary approach multimodality instruction information organizer structured study guides what-you-need-to-know chart study carrel peer support cross-age tutoring	magnifying bars page magnifiers colored acetate word window flash cards letter cards word cards sentence cards tactile letters and words magnetic board and letters felt board and letters/words colored paper clips to mark pages notebook tabs Post-it tape flags peer support highlighter	Digital Book System tape recorder "Books on Tape" Program record books/reading material headphones Language Master Speaking Language Master Word Master electronic dictionary

Modifications for Math

Method	Material	Technology
reduce the number of problems eliminate the need to copy problems enlarge worksheets avoid mixing signs on a page provide more time for completion graph paper raised number lines large number lines life-sized number lines mnemonic devices 2-finger counting aids multimodality instruction computational aids color-coding strategies green marker to start/red to stop peer support cross-age tutoring	abacus counters, spools, buttons, etc. containers for counters manipulatives flash cards set cards flannel board and numbers tactile numbers/signs automatic number stamp peer support highlighter personal chalkboard number facts charts	hand-held calculator calculator with printout talking calculator Language Master+Math tape recorder counting basic facts multiplication tables combinations formulas

Modifications for Written Expression

Method	Material	Technology
extra time for completion shorten assignments content outlines writing/story starters positive approaches study carrel formulate sentences aloud peer support cross-age tutoring	note cards word cards sentence cards clipboards pocket dictionary pocket thesaurus peer support highlighter	tape record thoughts before writing tape record story to proofread headphones electronic dictionary electronic thesaurus Word Master Speaking Dictionary Companion electric eraser

Modifications for Daily Organization

Method	Material	Technology
bulletin board schedule pocket schedule schedule in notebook appointment book assignment sheets reminder cards study carrel for individual work color-coding strategies peer support cross-age support homework journal structured study guides post signs and label areas in room tape a schedule on the desk	pocket organizer/planner personal organizer clipboards stapler peer support sticky notes for reminders notebook tabs Post-it tape flags colored paper clips highlighter storage cubicles	electronic memo/schedule masters electronic pocket organizer/planner tape record schedule/assignments digital diary electric stapler

Information in the foregoing tables was adapted from material developed by Judy Marquette in conjunction with the Central Instructional Support Center (CISC), Pennsylvania Department of Education, Pennsylvania Department of Public Welfare.

Section 3. Examples of Instructional Interventions

The key difference between an instructional intervention and a modification is this: An intervention includes direct instruction, and a modification does not *necessarily* include direct instruction. Interventions are not accommodations, adaptations, interagency referrals, special education settings, assessments, evaluations, screenings, classroom observations, advice or consultations, or parent contacts. The following list provides a few examples of interventions:

If a student is having difficulty:	**Intervention:**
Learning by listening	■ Pre-teach difficult vocabulary and concepts. ■Teach the mental activities involved in listening—mental note taking, questioning.
Expressing self verbally	■ Teach student to ask questions in class. ■ Teach body and language expression.
Reading written material	■ Pre-teach vocabulary. ■ Teach Comprehension Monitoring (Pressley, 1995). ■ Teach activities that enhance phonemic awareness, such as phonemic deletion, word-to-word matching, blending, sound isolation, phoneme segmentation, phoneme counting (Stanovitch, 1993).
Expressing self in writing	■ Teach computer-based study strategies (COPS) to help a student detect and correct writing errors: Capitalization of appropriate letters Overall appearance of paper Punctuation used correctly, Spelling accuracy (Shannon & Polloway, 1993). ■ Teach webbing and process writing strategies. ■ Teach finger-for-spacing strategy.
Spelling	■ Teach short, easy words in context. ■ Teach words by spelling patterns.
Computing mathematical equations	■ Teach touch points. ■ Teach abacus.

Seeing relationships	■ Teach these relationships directly: function, category, opposition, and sequence. ■ Provide direct practice identifying relationships.
Paying attention to spoken word	■ Provide direct instruction in self-monitoring. ■ Teach "following directions."
Portraying a positive self-image	■ Model positive self-statements and teach self-talk. ■ Teach the connection between effort and success.
Behaving appropriately in school	■ Teach social skills for school-related activities. ■ Teach anger control. ■ Teach self-monitoring techniques for on-task behavior. ■ Teach maintaining eye contact. ■ Teach and provide guided practice for school rules. ■ Teach student how to initiate peer interaction.
Organizing the learning environment	■ Teach strategies to keep the work space clear. ■ Teach strategies to organize desk or locker. ■ Teach maintaining a daily assignment book.

Interventions should be documented and monitored to determine progress and future decisions.

References:

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Appendix 2B

SUGGESTIONS FOR DELIVERING SENSITIVE INFORMATION TO PARENTS

Parent conferences and IEP meetings can be stressful. The following suggestions will aid in keeping the tone of meetings friendly and in creating a safe environment. This focus will help maximize the productivity of time spent together.

1. Provide a quiet, comfortable setting. Privacy affords the opportunity for a parent to react according to his or her needs.
2. Tell the parents together, if possible. When one parent has to tell the other, misunderstanding and confusion can result.
3. Be aware of the parent's level of readiness to receive information.
4. Be sensitive to problems of conflicting information. Probe for feedback regarding any misunderstandings.
5. Good communication skills are essential. Choose clear, direct, accurate statements.
6. Keep in mind that, while a parent is hearing sensitive information, he or she may recall more about the professional's attitude than the factual information being shared. Be aware of the nonverbal cues you send.
7. Try to have a sense of what the information may mean to the parent.
8. Keep the information simple and basic without patronizing the parent. Avoid the use of jargon whenever possible.
9. Allow sufficient time for the information to be shared and for questions and discussion. Do not rush the conference.
10. Never be afraid to say "I don't know" when difficult questions arise, but also indicate that you will try to find the answer or more information.
11. Realize that the parent will need time to consider the information. Be prepared to set up another conference. Follow-up is critical, as the parent may not process all the information given to him or her.
12. Do not argue with denial. Denial may be part of the process that leads to acceptance. Respect the parent's reactions even though you may not agree with them.

13. Try to be honest and straightforward without being brutal. Be wary of making predictions. Emphasize the student's strengths.

14. Be aware of one's own need for power and control in the conference or situation.

15. Present a balanced perspective. Discuss positive outcomes as well as limitations.

Appendix 2C
SAMPLE CHILD FIND ANNOUNCEMENT

(To be placed on district/program letterhead)

The ____________________ School District, in cooperation with parents and nonpublic school agencies, engages in Child Find services throughout the school year. Child Find activities are conducted (1) to create public awareness of special education programs, (2) to advise the public of the rights of students, and (3) to alert community residents of the need for identifying and serving children with disabilities from the age of 3 through the semester in which they turn 21.

If you know of a child who is 3 through 21 years of age who may have individual needs that result from disabilities or developmental delays, and who is not enrolled in a school program, please contact ________(name)________, ________(title)______, ____(phone number)_____, or the school district office at ____(phone number)______. These children may have difficulty walking, talking, hearing, or learning, or may display behaviors that appear different from other children their age.

If you are part of a community agency or civic group that would like more information about educating children with disabilities, or would like pamphlets to distribute to members, please call the school office or one of the above phone numbers.

Appendix 3

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Note: Appendices in the *Special Education Manual* contain a variety of technical assistance information, including sample letters and forms, suggestions for dealing with special education issues, and copies of various laws. The appendices should be viewed as additional resources to Chapters 1-10 in the *Special Education Manual*. The district is *not required* to adopt as policy or procedure any of the appendices in this manual to receive IDEA funding.

Appendix 3A

ELIGIBILITY DETERMINATION PORTFOLIO
for
Students Suspected of Having an Emotional Disturbance

Student: ______________________ Date: __________ Grade: __________

Teacher: ______________________ School: ______________________

This portfolio organizes the data collection process, provides a system to monitor time lines, and ensures that regulatory requirements for eligibility determination are followed.

Once the evaluation team decides to pursue, as part of the comprehensive evaluation, a determination of eligibility under the emotionally disturbed category, the process contained in this portfolio *must* be followed. Written parental consent for the evaluation must be obtained before the evaluation.

I. Attach documentation of the general education interventions including the length of time used and the results.

II. Document relevant social and medical history and attach. Once this is completed, note the following and proceed to III.

Verification: ______________________
Date: ______________________
By Whom: ______________________

III. One or more of the following characteristics must be present and thoroughly documented. If none are present STOP here. If one or more are present, go to IV.

A. An inability to learn that cannot be explained by intellectual, sensory, or health factors.

Definition: Inability to learn means that the condition must significantly interfere with the ability to benefit from instruction. It does not necessarily mean a total inability to learn. Reduced intellect, sensory or health impairment cannot be the primary cause of the behavioral/emotional problem. It must be established that there is an inability rather than an unwillingness.

Data:

- IQ testing or clear evidence of at least average cognitive ability
- Vision and hearing screening
- Medical history
- Academic performance history and data on current academic assessment

Verification: ____

____

____

B. An inability to build or maintain satisfactory interpersonal relationships with peers and teachers.

Definition: Patterns and problems of interpersonal relationships that result in the "inability to build or maintain" satisfactory relationships with peers, teachers, and others are pervasive and are characterized by conflict and chaos which create an inability to establish and maintain group membership. This also includes individuals who are profoundly withdrawn, have poor reality contact, or lack social skills but have the ability to learn them. This inability does not refer to students who have problems with a particular teacher or with one or more peers, nor does it include students who have appropriate, satisfactory relationships with peers in their subculture, yet violate community norms.

Data:

- Observations, behavior scales
- Personality inventories
- Teacher and parent reports

Verification: ____

____

____

C. Inappropriate types of behavior or feelings under normal circumstances.

Definition: Students exhibit behavior that is incongruent to the situation or is highly changeable. Behavior would include bizarre verbalization, overreaction, repeated recitation of words, fetishes, and obsessive and compulsive behaviors. Other actions may include inappropriate sexual behaviors such as inappropriate touching of others, public masturbation, or unusual or provocative sexual verbalization. Inappropriate feelings include negative self-statements as well as feelings that are reflected in and inferred from observable behavior. Documentation must be obtained that persistent and significantly inappropriate feelings exist which are not justified by circumstances.

Data:
- Observations, behavior rating scales
- Personality inventories
- Parent and teacher reports

Verification: ______________________________

____

____

D. A generally pervasive mood of unhappiness or depression.

Definition: Pervasive moods of unhappiness or depression may be manifested in different ways in different students and may include constant crying, withdrawal, boredom, and depression, as well as angry, aggressive, or agitated behavior. Also included are eating and sleeping problems, loss of interest in usual activities, as well as feelings of hopelessness. A desire to die or an intent to commit suicide signifies extremely troubled students. Feeling depressed about a death in the family or the divorce of parents is situation specific and, for the most part, a normal feeling that tends to be "resolvable" and not pervasive.

Data:
- Observations, behavior rating scales
- Personality inventories
- Parent and teacher reports

Verification: ______________________________

____

____

E. A tendency to develop physical symptoms or fears associated with personal or school problems.

Definition: Persistent physical symptoms are chronic, as opposed to acute reactions to some situation at home or school, and must have a negative impact on learning. They may include such reactions as headache, nausea, asthma, ulcers, and colitis. Data needs to be obtained across settings and over time, and medical evidence needs to be obtained to document that the problem does not have a physical origin. Although school phobia or refusal meets criteria for eligibility and certification as emotionally disturbed, placement would probably not be recommended. Other less restrictive treatment interventions such as systematic desensitization are likely to resolve the problem.

Data:
- Observations, behavior rating scales
- Personality inventory
- Parent and teacher reports

Verification: ____

____

____

F. Schizophrenia.

Definition: The DSM-IV includes diagnostic criteria for schizophrenia. Students properly diagnosed with schizophrenia automatically meet the characteristics and conditions of the emotionally disturbed criteria. Such students are entitled to services if they need special education or related services.

Data:
- Documentation

Verification: ____

____

____

IV. The characteristics must also meet the following. IF BOTH A and B are not met, STOP here! If both are present, go to V.

A. Long Period of Time (at least 6 months).

Definition: When determining whether a student exhibits behavioral or emotional problems over a long period of time, consider the following factors:

(1) Transitory situational problems that may be understandable, given the nature of the circumstances. For example, a death in the family, divorce, moving to a new school, financial crisis, or physical illness or injury may produce transitory behavior changes. In general, this is a temporary period of instability, bounded by times of greater stability.

(2) Non-transitory circumstances, where behavior changes do not return to the adaptive state that existed prior to a precipitating event. Evidence of a baseline of appropriate behavior prior to a significant (negative) change in behavior is needed. Historical information is important in order to do this.

Data:
- Written school documentation
- Historical information

Verification: ____

____

____

B. Marked Degree.

Definition: A "marked degree" generally is concerned with pervasiveness and intensity of the characteristics. Data regarding duration, frequency, and intensity must be included in the observation reports. Results from standardized and/or norm-referenced personality inventories and other instruments are used to substantiate "to a marked degree," but are not the sole source of information.

Data: To determine if the behavior is exhibited "to a marked degree," answer the following questions. The data must be from more than one knowledgeable observer in more than one setting (use a separate piece of paper if necessary).

(1) Is the behavior in question considered a significant problem by more than one observer and in more than one setting?

(2) What is the frequency, intensity and/or duration of the behavior? Is the frequency, intensity and/or duration significantly different from that of a similar student in the same or similar circumstances?

(3) In what setting does the behavior occur?

(4) Are there noticeable or predictable patterns to the behavior?

(5) How does the behavior affect others?

(6) Is the behavior identified as a concern by norm-referenced behavior measures?

V. Adverse Effects on Educational Performance

Definition: There must be evidence of a demonstrable relationship between the student's behavior and decreased educational performance. Keep in mind that educational performance is not limited to academic performance, but may also include interactions with peers or teachers, participation in class activities, and classroom conduct.

Data: Answer the following questions and document with observations, class work, and testing results:

(1) Is educational performance substantially within the range expected of a student based on his or her chronological age?

(2) If the student is performing below academic expectations, is the probable cause emotional problems?

(3) Are the emotional problems affecting educational performance of the student to a greater degree than similar problems affect the performance of peers?

(4) Does the student achieve passing grades?

(5) Does the student maintain regular academic growth?

(6) Does the student demonstrate severe deficiencies in social skills or social competencies that obstruct learning?

(7) Is the student absent frequently? If so, how have grades been affected?

Appendix 3B
REGRESSED INTELLIGENCE QUOTIENT SCORES

Instructions:

A conversion table to regress intelligence quotient (IQ) scores is located on the following pages. The table has 4 columns. Column 1 indicates full-scale IQ scores. Columns 2-4 indicate corresponding correlation scores. Follow the instructions below to determine the regressed IQ score to be used in determining whether the 15-point discrepancy between ability and achievement exists.

1. Determine the correlation between the intellectual measure and the achievement measure that was used to assess the student. Correlations are usually stated in the instructor's manual for each test.
2. Determine the appropriate column (2, 3, or 4) to use based on the correlation between the two tests. The table provides correlations at .7, .6, and .5. Use .6 if you cannot find the correlation in the instructor's manual or test literature.
3. Locate the student's full-scale IQ score on the intellectual measure in column 1 of the table.
4. Follow the IQ score across to a correlation score in the appropriate column. That score is the regressed IQ score.
5. Subtract the student's actual achievement standard score from the regressed IQ score.

Example:

If the correlation between the IQ test and the achievement test is .6 and the student's full-scale score is 86, the student's regressed IQ score would be 92.

Regressed full-scale IQ score	92
Minus achievement standard score	-75
Equals discrepancy	17

Conversion Table to Regress IQ Scores

	Correlation between full-scale IQ score and achievement scores		
Full-Scale IQ Score	**.7 Correlation**	**.6 Correlation**	**.5 Correlation**
150	135	130	125
149	134	129	125
148	134	129	124
147	133	128	124
146	132	128	123
145	132	127	123
144	131	126	122
143	130	126	122
142	129	125	121
141	129	125	121
140	128	124	120
139	127	123	120
138	127	123	119
137	126	122	119
136	125	122	118
135	125	121	118
134	124	120	117
133	123	120	117
132	122	119	116
131	122	119	116
130	121	118	115
129	120	117	115
128	120	117	114
127	119	116	114
126	118	116	113
125	118	115	113
124	117	114	112
123	116	114	112
122	115	113	111
121	115	113	111
120	114	112	110
119	113	111	110
118	113	111	109
117	112	110	109
116	111	110	108
115	111	109	108
114	110	108	107
113	109	108	107
112	108	107	106

Full-Scale IQ Score	.7 Correlation	.6 Correlation	.5 Correlation
111	108	107	106
110	107	106	105
109	106	105	105
108	106	105	104
107	105	104	104
106	104	104	103
105	104	103	103
104	103	102	102
103	102	102	102
102	101	101	101
101	101	101	101
100	100	100	100
99	99	99	100
98	99	99	99
97	98	98	99
96	97	98	98
95	97	97	98
94	96	96	97
93	96	96	97
92	94	95	96
91	94	95	96
90	93	94	95
89	92	93	95
88	92	93	94
87	91	92	94
86	90	92	93
85	89	91	93
84	89	90	92
83	88	90	92
82	87	89	91
81	87	89	91
80	86	88	90
79	85	87	90
78	85	87	89
77	84	86	89
76	83	86	88
75	83	85	88
74	82	84	87
73	81	84	87
72	80	83	86
71	80	83	86
70	79	82	85

Appendix 3C

DOCUMENTATION OF ADVERSE EFFECTS ON EDUCATIONAL PERFORMANCE FOR STUDENTS WITH SPEECH-LANGUAGE DISORDERS

Documentation of adverse effects on educational performance can be gathered from a thorough assessment of communication skills. The assessment must include student, parent, and teacher input.

Information must be recorded by the speech-language pathologist (SLP) on the *Eligibility Report* form.

An assessment of a student's ability to communicate, rather than isolated skill assessment, will provide information on how the impairment affects the student overall. The following errors and problems should be considered when determining how the student's ability to communicate may adversely affect educational performance:

1. Sound errors, voice quality, or fluency disorders inhibit the student from reading orally in class, speaking in front of the class, or being understood by teachers, peers, or family members.

2. Sound errors, voice quality, or fluency disorders embarrass the student. Peer relationships suffer as a result, or peers may make fun of the student.

3. Sound errors cause the student to make phonetic errors in spelling or have difficulty in phonics.

4. Grammatical errors create problems with a student's orientation in time.

5. Morphological errors inhibit the student from using or making complete sentences.

6. Semantic problems slow the student's ability to follow directions, give directions, make wants and needs known, make oneself understood, relate information to others, or fully participate in daily living.

Appendix 3D

FLUENCY COMMUNICATION RATING SCALE

Student: ____________________

School: ____________________ Date: ____________________

	Nondisabling Condition	Mild	Moderate	Severe
Frequency	Frequency of dysfluent behavior is within normal limits for student's age, gender, and speaking situation and/or less than 1 stuttered word per minute.	Transitory dysfluencies are observed in specific speaking situation(s) and/or 1-2 stuttered words per minute.	Frequent dysfluent behaviors are observed in specific speaking situations(s) and/or 4-10 stuttered words per minute.	Habitual dysfluent behaviors are observed in a majority of speaking situations and/or more than 10 stuttered words per minute.
Descriptive Assessment	Speech flow and time patterning are within normal limits. Developmental dysfluencies may be present.	Rate of speech interferes with intelligibility. Sound, syllable, and/or word repetitions or prolongations are present with no other secondary symptoms. Fluent speech periods predominate.	Rate of speech interferes with intelligibility. Sound, syllable, and/or prolongations are present. Secondary symptoms including blocking, avoidance, and physical concomitants may be observed.	Rate of speech interferes with intelligibility, sound, syllable, and/or word repetitions and/or prolongations are present. Secondary symptoms predominate. Avoidance and frustration behaviors are observed.

Comments:

Appendix 3E

VOICE RATING SCALE

Student: ______________________________ School: _________________ Date: ___________

	Nondisabling Condition	Mild Descriptive	Moderate Descriptive	Severe Wilson Voice Profile Scale
Pitch	Pitch is within normal limits.	There is a noticeable difference in pitch which may be intermittent.	There is a persistent, noticeable inappropriate raising or lowering of pitch for age and gender, or evidence of dysphonia.	+3 Pitch -3 Pitch -2 Pitch +2 Pitch
Intensity	Intensity is within normal limits.	There is a noticeable difference in intensity which may be intermittent.	There is a persistent, noticeable inappropriate increase or decrease in the intensity of speech, or the presence of aphonia.	-3 Intensity +2 Intensity -2 Intensity
Quality	Quality is within normal limits.	There is a noticeable difference in quality which may be intermittent.	There is a persistent, noticeable breathiness, glottal fry, harshness, hoarseness, tenseness, strident, or other abnormal vocal quality.	-2 Laryngeal +3 Laryngeal +2 Laryngeal - 3 Laryngeal
Resonance	Nasality is within normal limits.	There is a noticeable difference in nasality which may be intermittent.	There is a persistent noticeable cul-de-sac, hyper- or hypo-nasality, or mixed nasality.	-2 Resonance +3 Resonance +4 Resonance
Description of Current Physical Condition	No consistent laryngeal pathology; physical factors influencing quality, resonance or pitch, if present at all, are temporary and may include allergies, colds, or abnormal tonsils and adenoids.	Laryngeal pathology may be present. Physical factors indicated in moderate and/or severe levels may be present.	Probable presence of laryngeal pathology. Physical factors may include nodules, polyps, ulcers, edema, partial paralysis of vocal folds, palatal insufficiency, enlarged/insufficient tonsils and/or adenoids, neuromotor involvement, or hearing impairment.	Physical factors may include: - unilateral or bilateral paralysis of vocal folds - laryngectomy - psychosomatic disorders - neuromotor involvement of larynx muscles, i.e., cerebral palsy
Comments:				

Appendix 3F
CONVERSION CHART

This chart may be useful in converting scores between different standard measures. The chart is applicable only with instruments that base their standardization on a mean of 100 with a standard deviation of 15 points. Use the data given in the examiner's manual of the assessment instrument being used if it is provided.

Standard Score	Percentile Rank	Standard Deviation
100	50	- .00
99	48	- .07
98	45	- .13
97	42	- .20
96	40	- .27
95	37	- .33
94	34	- .40
93	32	- .47
92	30	- .53
91	28	- .60
90	26	- .67
89	24	- .73
88	22	- .80
87	20	- .87
86	18	- .93
85	16	- 1.00

Standard Score	Percentile Rank	Standard Deviation
84	14	- 1.07
83	13	- 1.13
82	12	- 1.20
81	11	- 1.27
80	9	- 1.33
79	8	- 1.40
78	7	- 1.47
77	6	-1.52
75	5	- 1.67
74	4	- 1.73
72	3	- 1.86
70	2	- 2.00
67	1	- 2.20
61	<1	- 2.60

Appendix 4

Appendix Contents

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Appendix 4C. Early Childhood Special Education Transition A-79

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Note: Appendices in the *Special Education Manual* contain a variety of technical assistance information, including sample letters and forms, suggestions for dealing with special education issues, and copies of various laws. The appendices should be viewed as additional resources to Chapters 1-10 in the *Special Education Manual*. The district is *not required* to adopt as policy or procedure any of the appendices in this manual to receive IDEA funding.

Appendix 4A

BEST PRACTICES FOR IEP DEVELOPMENT AND IMPLEMENTATION

This appendix can assist individualized education program (IEP) teams in moving beyond mere compliance with the Individuals with Disabilities Education Act (IDEA) to a process for conducting better IEP team meetings and developing more meaningful IEPs. The approach presented here springs from the book *Better IEPs* by Barbara D. Bateman.

This appendix will address the following questions:

- How does the IEP team prepare for an effective IEP team meeting?
- What are the IEP team members' roles at the IEP team meeting?
- How does the IEP team conduct an effective IEP team meeting?
- What is an example of an IEP goal and benchmark/objective that result from an IEP team meeting as described in this appendix?
- What are team members' responsibilities after the IEP meeting?

The model described in this appendix ensures that the IEP process focuses on the student, not on merely completing forms to ensure compliance with the law. The model works best with simplified forms that serve to record IEP team decisions rather than drive the team's discussion. The process is similar to the process used in person-centered planning meetings. In practice, this model has consistently been found to be parent- and student-friendly, and to result in better-quality IEPs.

The success of this model is the adoption of a paradigm that incorporates the parent/adult student as a full and respected team member. The model is not just a step-by-step procedure. It focuses on the process and outcome of an appropriate educational plan. The model encourages IEP team meetings that are both relaxed and professional. Experience has shown that meetings that were expected to be emotionally charged, adversarial, or even hostile become positive and productive when this model is used. Parents with significant experience with IEP team meetings, even adversarial ones, have commented that this model provides opportunities for the best IEP meeting involvement.

A. How does the IEP team prepare for an effective IEP team meeting?

1. Parent/Adult Student Preparation

The IEP team must ensure that the parent/adult student is informed of his or her role as a full and equal participant in the IEP meeting and understands the kind of input that will be most helpful. As the individual most knowledgeable about the student at issue, the parent/adult student is the primary source of medical, social, and educational information. He or she can also provide records from outside service providers or any additional information that may be pertinent to the student's needs. The parent/adult student must be contacted before the IEP meeting and must be aware of the type of information he or she can bring to the meeting.

The IDEA requires that the parent/adult student be included in discussions regarding the assessment decision and that he or she be given an opportunity to provide information to assist the team in doing an appropriate evaluation. Especially in the case of an initial placement, an appropriate IEP team member should discuss how the evaluation and IEP process works and how the parent/adult student can most effectively participate.

2. Setting

Meetings should be held in a setting that is comfortable for all participants. The furniture and the atmosphere should be appropriate for a professional meeting. A parent/adult student should never be required to sit in a small chair or at an uncomfortably low table. Interruptions should be kept at a minimum, and reasonable time should be allotted so that no one feels rushed. *All required participants should plan to be present for the entire meeting and to be active participants.*

B. What are the IEP team members' roles at the IEP team meeting?

Student (if rights have not transferred)	The student's role is to participate and to have ownership in his or her IEP. The parent decides whether the student will participate in the IEP meeting. The student can attend a portion of the meeting, but is not required to be there for the entire meeting. The student must be invited when secondary transition is discussed.
Parent/Adult Student	The parent/adult student provides relevant information regarding any assessments previously performed by agencies other than the current district. The parent/adult student also provides his or her observations of the student's educational needs. The parent's/adult student's membership is fully recognized and appreciated by other team members.

District Representative	A district representative is an individual who meets the criteria of a district representative and is designated by the principal or the director of special education to fill that role. The district representative or designee *must* participate in the IEP meeting. He or she must be knowledgeable about the general education curriculum and about the availability of resources in the district. Assigning the school principal to be the district representative provides him or her with the opportunity to actively participate in the meeting. The district representative can act as facilitator, recording information on the chalkboard, chart paper, etc.
Special Education Teacher	The special education teacher is the team member most knowledgeable about and qualified in the area of the student's disability. He or she should provide a summation of assessment information as it pertains to each area being discussed.
General Education Teacher	The general education teacher is the student's general teacher or a teacher qualified to provide education in the type of program in which the student may be placed. He or she should have clear ideas about what areas of the general education curriculum need to be addressed in the IEP. If the student has many teachers (middle school, junior high, high school), at least one general education teacher from a content area in which the student is having problems must attend, but they are not all required to attend the IEP meeting. Having too many participants at the meeting may be counterproductive. However, input from *all* the student's general education teachers in the content areas at issue should be obtained and brought to the meeting. Further, each of these general education teachers should be aware of the goals and benchmarks/objectives and of how to met the goals and benchmarks/objectives in his or her setting.
Others	Psychologists, speech-language pathologists, occupational therapists, physical therapists, transportation personnel, vision and hearing specialists, school counselors, social workers, school nurses, service coordinators, vocational rehabilitation counselors, adult service providers, etc., are generally not required by law to attend IEP meetings. However, such individuals can serve as team members, participating by providing written reports or by preparing a copy of the recommended service schedule to share with other IEP team members, including the parent/adult student, before the meeting. When psychologists, speech-language pathologists, etc., are team members, they too can share relevant assessment information and assist in designing appropriate and meaningful services. Such team members should be carefully selected so that there is a specific purpose and need for attending. (See Chapter 4, page 55 for required participants.)

C. How does the IEP team conduct an effective IEP team meeting?

1. Gathering Information

First, all legally required participants must be present. One team member should be designated to keep the meeting focused, on task, and moving along. This includes facilitating greetings, introductions, amenities, and then leading and guiding the participants in the IEP discussion. The discussion begins by listing the following student characteristics:

a. strengths, including present levels of performance;

b. needs, including present levels of performance; and

c. general goal areas and services to address needs.

The method of listing these stages of IEP development should be highly visible to all participants, e.g., chalkboard, flip chart, projection equipment. See Example 1, page A-63.

Discussion begins with the parent/adult student sharing what he or she sees as the student's strengths and needs. This approach allows the parent/adult student to be actively involved from the onset. The special education teacher, general education teacher, specialists and other related service personnel then share information on what they see as the student's strengths and needs, including present levels of performance. The process is more effective as an open discussion rather than a "take turns reporting" type of format. Using a blackboard, a flip chart, or projection equipment, one team member generates a list from this information in the format shown in Example 1.

Strengths including present levels of performance	**Needs including present levels of performance**	**General goal areas and services to address needs**
Likes to play simple games on the computer. Loves to look at books. Understands and follows 2-step verbal directions.	Has temper tantrums, needs to be compliant at home and at school. Student needs to be potty trained. Nonverbal—needs to develop neighborhood friends and learn to initiate social interaction.	Develop behavior plan based on assessment data to eliminate tantrums. Goals for toilet training. Establish an alternative communication system using an AT device.

Example 1: Label the three areas that will be addressed using a blackboard, a flip chart, or projection equipment.

As an alternative to this process, the McGill Action Planning System (MAPS) or a similar process could be used when:

a. a new student moves into the district;

b. a student is transitioning from one school to another; or

c. there are significant changes or turning points in a student's life and new information may be needed by the IEP team.

The MAPS process takes more preparation and involves a broader spectrum of participants, which may include relatives, peers, classmates, siblings, or caseworkers. All participants should receive the agenda in advance so they can be prepared for the discussion. The agenda should outline the eight areas to be discussed, as identified in the table on page A-64.

1. **What is Lee’s history?**

   This information provides an overview of the student’s life.

2. **What is your dream for Lee?**

   This gives the parent/adult student the opportunities to express his or her wishes and desires for the student.

3. **What is your nightmare for Lee?**

   This gives the parent/adult student the opportunity to share his or her concerns and fears regarding specific situations.

4. **Who is Lee?**

   This information should describe the characteristics and qualities of the student.

5. **What are Lee ’s strengths, gifts, and talents?**

   This information focuses on the student’s abilities instead of the negative aspects.

6. **What are Lee’s needs?**

   This information provides insight from all teams members regarding possible goal areas.

7. **What is Lee’s ideal day?**

   This outline of the student’s day will assist the team in determining when and where specific goals could be addressed and how the student will participate with peers in daily routines.

8. **What is the action plan for Lee?**

   The action plan describes who will do what by when based on the student’s needs as identified by the team.

Example 2: Using the McGill Action Planning System (MAPS) or a similar process, label the eight areas to be addressed using a blackboard, a flip chart or projection equipment.

For more information regarding the MAPS process refer to:

Forest, M., & Lusthaus, E. (1990) . Everyone belongs. *Teaching Exceptional Children, 22*, 32-35.

Stainback, S., & Stainback, W. (1996) . *Inclusion: A guide for educators.* Baltimore MD: Paul H. Brookes Publishing.

2. Transferring Information to the IEP

From the information generated in step one, the special education teacher, related service provider or designee records the list of strengths, needs, and services in the team minutes or in the appropriate sections of the IEP form, which begins on page A-249.

General goal statements and benchmarks/objectives are then written on the IEP form. The parent/adult student may or may not be present when the specific goals and benchmarks/objectives are written and finalized. Regardless, if the parent/adult student is not in attendance when goals and benchmarks/objectives are written, the finalized IEP is sent to the parent and adult student with written notice prior to implementation.

3. IEP Service Description

The special education teacher or service provider discusses with the parent/adult student and related service personnel the services needed; the frequency, duration, start date, and location; and modifications. These are written in the service description section of the IEP. Also at this point, the following items can be discussed, determined, and documented in the team minutes or the appropriate sections of the IEP form:

a. participation in special education services;

b. participation in statewide or districtwide assessment;

c. transition services;

d. the need for extended school year (ESY) services; and

e. least restrictive environment (LRE) requirements.

The parent/adult student and teachers determine modifications needed. They may review a checklist of accommodations and adaptations developed by the district and select those that will be used with the student in the general education classroom. The checklist becomes a supplemental page to the service description of the IEP, and a copy is given to the parent, adult student, and classroom teacher. Modifications may also simply be listed in the service description. The following table clarifies the term "modification":

Modification Modifications are accommodations or adaptations to the general education curriculum to meet the individual needs of a student with a disability. Modifications may also include alternative and supplemental curricula.		
Accommodation	Adaptation	Alternative Curriculum *or* Supplemental Curriculum
An accommodation is any modification designed to make education more accessible or that allows the student to participate more fully in his or her educational program, e.g., Braille, large print, pencil grips, extra time..	An adaptation is any modification designed to lead to educational outcomes that represent only part of the general classroom curriculum, such as fewer concepts mastered, different outcomes planned.	An alternative or a supplemental curriculum is not based on or drawn directly from the general education curriculum. The most familiar example is the instruction done by special education staff when a student is pulled out of the classroom. If the material used is different from that being used in the general curriculum, then it is either an alternative or a supplemental curriculum. Reading Recovery is a supplemental curriculum. Using 1st grade material with a 3rd grade student is an alternative curriculum.

After the IEP team has determined what modifications are necessary, the special education teacher or service provider should inform the parent/adult student of the following:

a. The goals and benchmarks/objectives precisely describing the outcomes discussed by the IEP team will be sent to the parent and adult student within 3 days.

b. The proposed IEP will include written notice.

c. Upon reviewing the proposed IEP the parent/adult student may request revisions to the IEP, if needed.

Following these statements the IEP meeting can conclude.

D. What is an example of an IEP goal and benchmark/objective that results from an IEP team meeting as described in this appendix?

After the IEP meeting, the service providers listed in the IEP service description develop IEP goals and benchmarks/objectives for the student. The goals and benchmarks/objectives are sent to the parent and adult student within 3 school days. The purpose of the goals and benchmarks/objectives is to articulate the intended outcomes and the effectiveness of services.

Present Levels of Performance *and* **Areas of Need**	**Annual Goals:** Level of performance expected in a year. **Benchmarks/Objectives:** At least 2 benchmarks/objectives of how far by when, including how progress will be evaluated. **Progress Reporting:** How will the parent/adult student be informed of progress on this goal?
Susie has good left-right orientation, knows all of the letters, knows beginning sounds, has an accuracy rate of 75% and an error ratio of 1:4 on the running record. She currently reads at 1.6 grade level. She needs to increase her reading skills to a 2.6 grade level.	1. Susie will increase reading skills from 1.6 grade level to 2.6 grade level as documented by the running record. Progress will be reported to the parent at regularly scheduled parent/teacher conferences. • By 11/1/98 Susie will increase her reading skills to 1.9 grade level. • By 3/1/99 Susie will increase her reading skills to 2.2 grade level. • By 5/20/99 Susie will increase her reading skills to 2.6 grade level.

E. What are team members' responsibilities after the IEP meeting?

Many of the team members' responsibilities have been described above, but to clarify and summarize, the following are important steps to effectively complete and implement the IEP:

1. The special education teacher and any other service providers should meet to finalize and formalize the writing of the goals and benchmarks/objectives. In some cases this may have been completed at the IEP meeting; however, as long as the parent/adult student has been a full participant and understands the decisions made regarding IEP content, finalization of IEP goals and benchmarks/objectives can occur after the meeting to allow discussion and writing in a less pressured setting. It is wise for the team to set a time line so that the IEP is completed in a timely manner. Three days is generally reasonable.

2. When possible, the special education teacher and the general education teacher should meet with the parent/adult student immediately following the formal IEP meeting to clarify specific modifications to the general curriculum. This may also take place during the IEP team meeting.

3. Copies of the IEP or some suitable summarization must be given to the general education teachers working with the student. This will inform and remind them of the modifications and the services being provided, and their role in that process.

4. Written notice must be sent to the parent and adult student with a copy of the completed IEP.

References:

Bateman, Barbara D. (1992-1996) . *Better IEPs: How to develop legally correct and educationally useful programs*. (2nd ed., 3rd printing) . Longmont, CO: Sopris West.

Appendix 4B
TRANSITION FOR SECONDARY STUDENTS

Transition planning is a formal process to assist students with disabilities as well as their families to prepare for the movement from school programs and services to their future as active, adult members of the community and society. It is an integral part of the individualized education program (IEP) for secondary students. Transition planning should result in the secondary student receiving appropriate services and programs and having experiences that will provide him or her with the self-confidence and skills needed to enter postsecondary education or the work force. The secondary transition process provides opportunities to:

- assist the student and his or her family in thinking about the future and in identifying the focus of the student's course of study that will develop the knowledge and skills necessary for the student to meet his or her goals after high school;
- jointly plan for the school and community experiences that will relate directly to the student's dreams and desired outcomes;
- assist the student and his or her family in making linkages to the agencies and services they will need during and after high school; and
- increase the student's likelihood of success once he or she graduates or exits school.

Section I. Overview

A. Transition Services

Providing secondary transition services involves a partnership among students and their families, district personnel, adult-service providers, employers, and postsecondary education support services in the local community; the result of this partnership is the student's movement from school to postsecondary education, vocational training, employment, independent living, and community participation. Secondary transition services provide the necessary link to increase the likelihood that this movement will be successful for students with disabilities. Over the years, the IDEA has recognized the necessity of planning and preparing students and their families for the challenges and complexities of the adult world. The IDEA defines transition services as:

1. an outcome-oriented process for a student with a disability;
2. based on the individual student's needs, taking into account the student's preferences and interests;

3. a process that identifies student postschool goals which promotes movement from school to postschool activities, including postsecondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation; and

4. a coordinated set of transition activities for instruction, related services, community experiences, the development of employment and other postschool adult-living objectives, and, when appropriate, the acquisition of daily living skills and a functional vocational evaluation.

Planning for secondary transition and the services that are needed should span a multiyear period that begins for each student at age 14, or earlier if appropriate, and should continue until the student graduates from or exits school. Planning begins with developing a course of study that focuses on applicable components of the student's IEP and continues to identify transition services needed in the following areas: employment, postsecondary education/training, adult living, and community participation (including transportation, recreation, and leisure). Other areas that need to be considered are self-determination and advocacy, legal services, social and family relationships, medical services, financial planning, and any other area related to a student's needs. In addition, a statement of any linkages with other agencies for transition services will also be incorporated into the IEP process for each student beginning at age 16, or younger if appropriate.

B. Outcome-oriented process

The process used to develop a student's IEP at the secondary level includes gathering information, setting postschool goals, and providing experiences that will prepare the student for his or her adult life. Secondary transition places the student's dreams for the future as the starting point for the development of annual goals, benchmarks/objectives and transition activities that comprise the student's IEP. Beginning at age 14, the assessment of needs, planning, and implementation of services that has occurred during the IEP process described in Appendix 4A, page A-59 expands to focus on incorporate instruction, related services, community experiences, employment, and adult-living activities to assist the student in reaching his or her dreams.

C. Student preferences, interests, and needs

The IEP team, which includes the student, must assist the student and his or her family in determining strengths, needs, preferences, and interests related to their life following high school. This can be accomplished through the use of interviews, observations, informal assessments (pictorial, written, and work samples), and formal assessments (career inventories) to gather information on the student's abilities, preferences, and choices. Areas to consider in this process include:

1. employment;

2. postsecondary education/vocational training;

3. adult living; and
4. community participation.

Other areas that may assist the student in achieving his or her desired outcomes include:

1. self-determination and advocacy;
2. legal services;
3. social skills;
4. health and medical services; and
5. financial planning.

D. Student-identified Postschool Goals

Postschool outcomes will be addressed in each student's identified areas of need, which may include employment, postsecondary education/vocational training, adult-living activities, and community participation. In other words, postschool outcomes should be developed to address where the student is going to work, live, play, and continue to learn after high school graduation. When assisting a student and his or her family to plan for the future through the development of postschool goals, several things should be kept in mind:

1. Postschool goals should speak to what is going to happen to the student after graduation.
2. Postschool goals may initially be less specific, increasing in detail as the student moves through his or her high school experiences.
3. Postschool goals may change from year to year, and the process of transition planning must be flexible enough to accommodate the student's desires, needs, situations, and dreams.
4. There may be cases where a student may not require transition services in one of the areas because the student already possesses all the necessary skills or already has access to the services, resources, or supports needed to accomplishing the goal.
5. The development of postschool goals must be accomplished through a planning process that involves the student, the parent, school personnel, and adult-service providers.

E. Coordinated Set of Transition Service Activities

Transition services for students must be coordinated within the school and with service providers within the community. These activities should be planned, organized, and delivered in a sequential manner and should be aimed at ensuring the achievement of the student's identified postschool goals. The IEP should reflect the following transition areas:

1. **Instruction/Related services:** The teaching of skills required to meet the student's identified postschool goals. These skills should be written in the IEP as annual goals and benchmarks/objectives that can be taught through regular and/or special education.

2. **Community experiences:** Experiences in the community that provide the student opportunities to develop skills in the actual settings they may be used. The IEP will address these skills as goals and benchmarks/objectives and/or outline these skills as future outcomes in the appropriate sections. This should include agency linkages that are needed to ensure that the community experiences occur.

3. **Employment:** Employment services and/or experiences provided by the school or other agencies in the community that will lead to future career/job opportunities. These activities must be outlined in the future outcomes section of the IEP. When skills must be learned they should be written as goals and benchmarks/objectives.

4. **Adult-living activities:** Activities that develop skills needed to function as independently as possible in adult environments. These activities include obtaining medical care, renting an apartment, acquiring and filing for insurance, or buying furniture. These activities must be outlined in the future outcomes section of the IEP. When skills must be learned they should be written as goals and benchmarks/objectives.

Based on the individual needs and goals identified for the student, the IEP must also include activities in the areas of daily living skills and a functional vocational evaluation.

1. **Daily living skills:** Activities such as personal hygiene, home maintenance, and cooking that are required for day-to-day functioning in the community and lead to increased independence. Daily living skills should be written as goals and benchmarks/objectives in the IEP.

2. **Functional vocational evaluation:** An assessment of a student's interests, aptitudes, and vocational skills. These assessments can be performed by the school or an outside agency. Time lines and the person responsible should be outlined in the future outcomes section of the IEP.

Section 2. Transition Planning in the IEP Process

This section lists the activities necessary for successful transition planning in chronological order. It is important that the student be an active participant in each step of the transition planning and throughout the IEP process. The transition plan is not a stand-alone document. It is an integral component of an IEP at the secondary level and must be reviewed annually to reflect the changing needs of the student. The suggested steps for development of an IEP at the secondary level are outlined in Section 3, page A-75 of this appendix.

A. Meeting Participants

The district has the primary responsibility for planning, organizing and conducting all transition meetings. All the requirements for IEP team members apply at IEP team meetings where secondary transition is to be discussed. The district must document that an invitation has been extended to the student to participate in the transition planning meeting. If the student does not attend, the school must take other steps to ensure that the student's preferences and interests are considered.

Additional IEP team members may be needed to address issues specific to the secondary transition process. If an agency other than the school is responsible for providing or paying for transition services, that agency must be invited.

B. Before the IEP Meeting

1. Assist the student and family in determining strengths, needs, preferences, and interests related to the student's life following high school. Resources that can be used in identifying student interests and preferences and in developing self-determination curricula can be found at the end of this appendix on page A-76.

2. Using information gathered through the process described in item 1, assist the student in visualizing the future beyond high school and in identifying his or her desired goals and outcomes for adult life in each of the areas of transition.

3. Assist the student and family in identifying skills that the student must have to successfully achieve his or her desired goals and outcomes for adult life in each area of transition.

4. Using all of the information gathered through the described process, determine the student's present level of performance in each of the areas of transition.

5. Taking into consideration the student's interests and present levels of performance in each area of transition, list the knowledge and skills the student will need to develop. In addition, identify activities and services that may assist the student in achieving his or her goals.

C. During the IEP Meeting

1. Develop student-identified postschool goals.

2. Develop a plan by reviewing the present levels of performance and skills needed for success in desired future environments.

3. Write statements of needed transition services that reflect the future skill demands in each of the identified transition areas. This must include a parent-approved student learning plan that is developed and in place no later than when the student turns 15. These statements become the basis for developing the annual goals, identifying needed supports, establishing benchmarks/objectives, and determining the specific linkages with other agencies.

4. Write measurable annual IEP goals that will eliminate or reduce barriers to success and increase the opportunities to achieve the student's vision of the future.

5. Write benchmarks/objectives for meeting the measurable IEP goals.

6. Identify the specific resources, courses, programs, services, linkages, modifications, and options needed by the student to reach the annual goals.

7. For each student beginning at age 16, or earlier if appropriate, determine and specify linkages to agencies outside the school that will provide services to assist the student in the achievement of his or her goals. The IEP team should determine how and when the linkages will be made.

8. Establish reasonable time lines for implementing the IEP and include how often the district will inform the parent/adult student of progress toward the annual goals and dates for monitoring one-time tasks. Progress will be reported at least as often as the district informs parents of nondisabled children of their progress.

9. Designate the responsible persons for implementing the various components of the plan, with the full knowledge and approval of all persons named.

10. Provide written notice as required for the IEP process (see Chapter 7, Section 3, page 99 on written notice).

D. After the IEP Meeting

1. Provide the instruction, experiences, and services outlined in the IEP.

2. Collect data to determine if skills that have been acquired are adequate for achieving the student's identified goals and outcomes for adult life. If data indicates progress toward the goals is not adequate, determine alternative strategies. Evaluating the progress toward benchmarks/objectives is an ongoing process that may lead to IEP revisions.

3. Communicate progress toward the annual goals to the parent and student.

4. If an agency fails to follow through on services agreed to in the transition plan, the school must initiate a meeting to identify alternative strategies to address the needed transition service.

5. Monitor outcomes by reviewing the IEP at least annually. The review is important to determine whether the transition needs are still the same. Through the process of reviewing data collected throughout the year, the IEP team determines the present levels of performance, current needs, preferences, and interests. The student should also determine if his or her preferences and interests have changed.

6. Revise the IEP annually to meet the needs of the student. Statements of needed transition services in the new IEP may be a combination of revised IEP transition goals from the previous IEP, new goals, benchmarks/objectives, and coordinated activities.

Section 3. Transition Service Age Requirements

A. Requirements at Age 14

For each student beginning at age 14, or earlier if determined appropriate, the IEP must include a statement of the transition service needs of the student under the applicable components of his or her IEP that focus on the student's course of study during the secondary school experience. For example, if a student's postschool outcome in the area of postsecondary education is to enroll in a community vocational program dealing with mechanics, then the course of study should reflect classes required to enroll in a community college and also vocational courses in auto mechanics or work experience. At this time the IEP team should also consider whether the student will participate in driver's education and, if so, the nature of any accommodations that may be needed.

Administrative Rules of the State Board of Education include a provision for the development and annual update of a parent-approved student learning plan for all students in Idaho. This plan is required no later than the end of the 8th grade unless the parent requests that a plan not be developed. According to state rules, the plan will describe the list of courses and learning activities in which the student will engage while working toward meeting the district's graduation standard. The plan is to be developed by the student and parent with the advice and recommendations of school personnel. This plan, when completed using the required process discussed in Section 2, page A-72 and attached to the IEP, can be used to meet part or all of the requirements of the statement of needed transition services, provided that it is based on individual student needs, including his or her preferences and interests, and includes the student's postschool goals.

Since the state rules are less restrictive than the IDEA requirements in regards to age and the mandate of a transition statement, the federal requirements prevail. Under the IDEA, the transition services requirement that focuses on courses of study must be included in the IEP; there is no provision for a parent to request that this requirement not be addressed. Furthermore, the statement of transition service needs, which focuses on the course of study, will need to be developed and in place beginning at age 14. The statement must be developed at the first IEP meeting after the student turns 14 years old, or earlier if determined appropriate by the IEP team.

B. Requirements at Age 16

For each student beginning at age 16, or younger if determined appropriate, the IEP will contain a statement of needed transition services including any linkages with other agencies and their interagency responsibilities. For example, if a student has transition needs in the area of postsecondary training, and a vocational assessment needs to be conducted by the Idaho Department of Vocational Rehabilitation, then the statement of the interagency responsibilities needs to be identified and outlined in the IEP. The statement must be developed at the first IEP meeting after the student turns 16 years old, or earlier if determined appropriate by the IEP team.

C. Requirements at Age 17

The IEP team is required to discuss with the family issues regarding transfer of rights and guardianship as part of the transition process. Not later than the student's 17th birthday, the IEP must include a statement that the parent and student have been informed whether or not special education rights will transfer to the student on his or her 18th birthday. Special education rights will transfer from a parent to an adult student when the student turns 18 years of age with two exceptions: (1) the IEP team determines the student is unable to provide informed consent with respect to his or her special education program; or (2) the parent has obtained legal guardianship including the scope of educational matters. More information on the transfer of special education rights and guardianship can be found in Appendix 7A, page A-113.

Section 4. References

The following references can be used for implementing secondary transition:

Idaho State Division of Vocational Education. (1998) . *Taking the mystery out of the student learning plan: Finding the beginning paths to planning information guide*. Boise, ID: Division of Vocational Education.

Public Schools of North Carolina. (1998) . Touching the future: Lighting the way. *North Carolina Transition Manual*. Raleigh, NC: State Board of Education, Department of Public Instruction.

The following references can be used in transition planning to determine the student's interests and preferences:

Forest, M., & Lusthaus, E. (1990) . Everyone belongs. *Teaching Exceptional Children, 22*, 32-35.

Menchitti, B. M., & Sweeney, M. A. (1995) . *Person-centered planning*. (Technical Assistance Packet #5.) Gainesville, FL: University of Florida, Department of Special Education Florida Network.

Pearpoint, J., O'Brien, J., & Forest, M. (1993) . *PATH: A workbook for planning positive futures.* Toronto: Inclusion Press.

Stainback, S., & Stainback, W. (1996) . *Inclusion: A guide for educators*. Baltimore, MD: Paul H. Brookes Publishing.

Vandercook, T., York, J., & Forest, M. (1989) . The McGill action planning system (MAPS): A strategy for building the vision. *The Journal of Association for Persons with Severe Handicaps*, *14*(3), 205-215.

The following references can be used for teaching self-determination to students with disabilities:

Martin, J. E., Marshall, L. H., Maxson, L., & Jerman, P. (1996) . *Self-directed IEP*. Longmont, CO: Sopris West.

Martin, J. E., Marshall, L. H., Maxson, L., & Jerman, P. (1997) . *Choosing employment goals*. Longmont, CO: Sopris West.

Sands, D. J., & Wehmeyer, M. L. (1996) . *Self-determination across the life span: Independence and choice for people with disabilities*. Baltimore, MD: Brookes Publishing.

Wehmeyer, M. L., Agran, M., & Hughes, C. (1998) . *Teaching self-determination to students with disabilities: Basic skills for successful transition.* Baltimore, MD: Brookes Publishing.

Appendix 4C
EARLY CHILDHOOD SPECIAL EDUCATION TRANSITION

Transitions are defined as points of change in personnel who coordinate and deliver services to students with disabilities and their families as well as changes in the actual services. Periods of transition present an array of challenges and a sense of uncertainty to families, educators, and all service providers. Transition planning is critical in preventing problems involving delays in service delivery, financial burdens for materials, transportation, personnel training, differing philosophies or techniques of instruction, and so forth. Careful and thoughtful planning by the IEP team will ensure a smooth and coordinated movement between programs and services.

In early childhood special education (ECSE) there are two major transition points: (1) when students move from Part C services to Part B services of the Individuals with Disabilities Education Act (IDEA); and (2) when students transition from ECSE preschool programs to the regular kindergarten school-age programs. This appendix can assist the district in understanding the components and responsibilities involved in a coordinated and effective transition process from Part C's early intervention programs to Part B services. This appendix can also be applied to transitions from an ECSE preschool to the regular school-age program in the district.

Section 1. Overview

A. Rationale for Planning Transitions

The reasons for planning transitions are to:

1. ensure continuity of services;
2. minimize disruptions to the family system by facilitating adaptation to change;
3. ensure that a child is prepared to function in the receiving program and that service providers are prepared to meet the needs of the child; and
4. fulfill the legal requirements of Parts B and C of the IDEA Amendments of 1997.

Section 2. Legal Requirements for Transition Planning

A. Part B Requirements

Under Part B of the IDEA, the State Department of Education (SDE) must have policies and procedures for transition from Part C infant/toddler services to Part B preschool programs; these policies and procedures must ensure that children participating in early intervention programs assisted under Part C will experience a smooth and effective transition to preschool programs under Part B.

In addition, districts will participate in transition planning conferences arranged by the designated lead agency under Part C, which is the Department of Health and Welfare (DHW) in the State of Idaho. The IDEA states that by the 3rd birthday of a child with a disability who will be eligible for ECSE services provided by the district, an individualized education program (IEP) or an individualized family service plan (IFSP) has to be developed and implemented for the child.

B. Part C Requirements

The DHW is the lead agency for services to infants and toddlers, ages birth through two years under Part C of the IDEA. The DHW is also required to have policies and procedures to ensure a smooth transition for toddlers receiving early intervention services to preschool or other appropriate services. The policies and procedures must include a description of how families of the toddlers will be included in the transition plan and how DHW will notify the local district in the area in which the child resides, that the child will shortly reach the age of eligibility for preschool services under Part B.

In the case of a child who may be eligible for ECSE preschool services in the district, a transition planning conference, with family approval, will be conducted by the DHW with the family and the district. The planning conference will occur at least 90 days (and at the discretion of all parties, up to 6 months) before the child is eligible for the preschool services to discuss any services that the child may receive. The DHW also has the responsibility to review the child's program options for the period from the child's 3rd birthday through the remainder of the school year and establish a transition plan that is developed with involvement from the family and district.

Section 3. Implementing the Requirements of ECSE Interagency Agreements

Interagency agreements exist to ensure a smooth transition from Part C to Part B services for children with disabilities and their families. A state interagency agreement exists between the SDE, the DHW, Head Start, and Migrant Head Start. Interagency agreements should also exist between local districts, local Head Start Programs, and DHW infant/toddler services and other service providers as appropriate.

The interagency agreement between SDE, DHW, Head Start, and Migrant Head Start outlines the obligations of each agency cooperating in the transition process as follows:

1. The DHW will notify the district in which a child resides of a pending transition from the infant/toddler program to the Part B program at least 6 months prior to the child's 3rd birthday.

2. The DHW is responsible for obtaining parental consent prior to the exchange of confidential information.

3. The DHW must coordinate with the infant/toddler service providers and the district to ensure that existing assessment information and any additional assessments necessary to determine eligibility for Part B services are completed and compiled prior to the child's 3rd birthday. If additional assessments are necessary, parental consent will be obtained.

4. The DHW will convene a transition planning conference at least 90 days prior to the child's 3rd birthday. The child's IFSP or Part C transition plan must include steps to be taken to support the transition of the child to Part B services. A sample Part C transition plan can be found in Attachment 1. DHW will be responsible for including the family in the transition process and will provide notice to the family of transition activities and of the family's rights under Part B of the IDEA.

5. The pivot point in determining which agency provides services for the remainder of the school year is *March 1st*. If the child's 3rd birthday occurs before March 1st of a given school year, the district will provide services from the 3rd birthday through the remainder of the school year unless a local interagency agreement or IEP/IFSP specifies differently. If the child's 3rd birthday occurs after March 1st of the given school year, the DHW will provide services until the beginning of the district's school year if the parent agrees.

6. At the transition planning conference, the DHW will advise the family and others of options available, including Head Start, for placement when the child turns 3.

7. The district will participate with the DHW in a transition planning conference. In addition, the district will review existing assessment information, identifying what additional assessments, if any, are needed to determine eligibility for Part B services and whether the district will conduct any of these assessments.

8. The district will conduct any assessments it agrees to provide prior to the child's 3rd birthday. Eligibility for Part B services can be determined at the transition planning conference if all assessment information is available and all required evaluation team members are present, or through another method or meeting prior to the child's 3rd birthday.

9. The district may develop an IEP or accept the IFSP and implement the educational components. If the district and parent agree to use an IFSP, the district must provide the parent with a detailed explanation of the differences between an IFSP and an IEP and obtain written consent. A sample explanation of the differences between an IFSP and an IEP can be found in Attachment 2.

10. An IEP can be developed at the transition planning conference (if all required IEP team members are present) or at another IEP team meeting prior to the child's 3rd birthday. Parental consent for initial placement must be obtained by the district prior to the initiation of Part B services.

11. Head Start and Migrant Head Start will initiate and participate in a transition planning conference with the district for children with disabilities who are enrolled in their programs. Local interagency agreements will specify time lines and responsibilities for transitions from these programs.

Section 4. Collaborative Planning and Coordination

Transitions require a great deal of effective communication and coordination among the agencies and programs that provide services to young children with disabilities and their families. Interagency cooperation must occur at all levels: agency, building, classroom; and between teachers, developmental specialists, and therapists.

An interagency agreement is a tool that can be used at the local level to ensure smooth transition. Interagency agreements that address transition are necessary to:

1. ensure that the receiving program is aware of the individual strengths and needs of a child;

2. reduce the time lapse between referral and placement of a child;

3. avoid duplication of services; and

4. encourage appropriate parental involvement. Interagency agreements are developed so that advice and information to a parent is appropriate and up-to-date.

A. Interagency Agreement Components

Some suggestions of areas to include in local interagency agreements are statements or descriptions of:

1. the purpose(s) of the agreement;

2. how staff, facilities, and other resources are shared for Child Find;
3. the local referral process;
4. staff positions that will attend the transition planning conference and/or IEP/IFSP team meetings;
5. procedures for making placement decisions;
6. development of community linkages for inclusive environments;
7. the transition process;
8. financial and child count responsibilities;
9. extended school year services;
10. transportation arrangements;
11. joint training efforts; and
12. policies and procedures for exchanging confidential education records.

B. Part C Transition Plan Components

For an effective transition to occur for a specific child, planning should allow for team discussions and the time to make individualized decisions about evaluations, services, monitoring, transition activities, and placement for the child with disabilities.

A Part C transition plan written by the DHW, with the participation of the district, should do the following:

1. assess the sending and receiving environments to determine skills needed by the child;
2. develop transition goals and benchmarks/objectives for the IFSP or IEP;
3. include activities that the parent has requested to support transition;
4. determine what additional information is needed to help the receiving program understand the child's current needs; and
5. include activities needed by service providers in the receiving program to best meet the needs of the child, for example, site visits, training opportunities, etc.

C. Family/Parent Involvement

The one constant component in a child's life as he or she moves through the continuum of agencies and services is the family. Public agencies and private services can all be temporary, dropping in and out based on conditions, complications, or age of the child. The parent is ultimately responsible for the child's development, education, and social and emotional well-being. Parents should be empowered to function as educated decision makers, caregivers, teachers, and advocates for their children.

Even after the child's transition to Part B program has occurred, a systematic method for effectively involving the parent should be developed. It is important to gain information regarding satisfaction toward the transition process, identify areas of continued concern, and generate a list of potential activities that could be implemented. Make sure families have all the necessary information regarding program operation, parental rights, and parental responsibilities. A parent handbook is useful in providing this information to the child's family. An emphasis on including parents as equal partners will help ensure a smooth transition for children with disabilities.

Attachment 1

Transition Plan

(Sample)

When ______________________________ turns three . . .

What will change?

What do we need to know or consider?

What needs to be done?	Who is responsible?	Time line	Date Complete

School Name: ______________________ District: ____________

School Address: ______________________________

Preschool Teacher: ______________________ Phone: ____________

Notes: ______________________________

Attachment 2

Comparison of the IEP and IFSP

Districts have the option of writing an individualized family service plan (IFSP) instead of an individualized education program (IEP) for children ages 3 through 5. If this option is used, parents of children with disabilities in this age group must be provided with a detailed explanation of the differences between an IFSP and an IEP and must give written consent to use an IFSP. If an IFSP is used, it must be developed in accordance with Part C of the Individuals with Disabilities Education Act (IDEA) and the policies and procedures of the Idaho Infant Toddler Program The following is an explanation of the differences between an IEP and an IFSP:

Components of the IEP	Components of the IFSP
A statement of the child's present levels of educational performance including how the disability affects the child's participation in appropriate activities.	A statement of the child's present levels of physical, cognitive, communication, social or emotional, and adaptive development, based on objective criteria.
A statement of measurable annual goals and benchmarks/objectives related to how the child will be involved and participate in appropriate activities, as well as how the child's educational needs that result from the disability will be met.	A statement of the major outcomes expected to be achieved for the child and the family.
A statement of the special education and related services, modifications, and supplementary aids and services to be provided to the child or on behalf of the child.	A statement of specific early intervention services necessary to meet the unique needs of the child and family.
An explanation of the extent, if any, to which the child will not participate with nondisabled children in the general class and classroom activities.	A statement of natural environments in which early intervention services will be provided, including a justification of the extent, if any, to which services will not be provided in natural settings.

The projected date for the beginning of the services and modifications. The anticipated frequency, location, and duration of those services and modification.	The projected date for initiation of services and the anticipated duration of the services. It must also include the frequency, intensity, and method of delivering the early intervention services.
A statement of how the child's progress toward the annual goals will be measured, including how the child's parent will be regularly informed. This is to include the extent to which that progress is sufficient to enable the child to achieve the goals by the end of the year.	The criteria, procedures, and times used to determine the degree to which progress toward achieving the outcomes is being made and whether modifications or revisions of the outcomes or services are necessary
Parent signature on the IEP indicates that the parent participated in the development of the IEP. Informed written consent must be given by the parent for the initial provision of special education and related services under Part B as outlined in the IEP.	Parent signature on the IFSP means informed written consent is given for the services listed in the IFSP.
	The identification of the service coordinator from the profession most immediately relevant to the child's or family's needs, (or who is otherwise qualified to carry out all applicable responsibilities) who will be responsible for the implementation of the plan and coordination with other agencies and persons.
	A statement of the family's resources, priorities, and concerns relating to enhancing the development of the child with a disability.
	The steps to be taken to support the transition of the child with a disability to preschool or other appropriate services.

Appendix 4D

STATEWIDE AND DISTRICTWIDE ASSESSMENT ACCOMMODATIONS GUIDELINES

Making accommodations for statewide and districtwide assessments are permissible, provided that they are listed in the student's IEP, are used by the student on a regular basis for classroom instruction and test taking, and do not invalidate the test. The following lists are state-approved accommodations. The list is not exhaustive, and there may be other accommodations that are appropriate. For special approval of other accommodations not listed or for clarification, contact the testing coordinator at the State Department of Education.

A. Flexible Scheduling

Flexible scheduling may include:

1. altering the time of day the test is administered (e.g., morning, midday, afternoon, after ingestion of medication);
2. administering the test in several sessions;
3. administering the test over several days; and
4. administering the subtests in a different order (e.g., longer subtest first, shorter subtest later, math first, English later).

B. Flexible Setting

Flexible settings are most commonly used when a student has difficulty focusing attention in a group setting, disturbs others in a group setting, needs frequent breaks, or needs flexible timing. Flexible settings may include one of the following:

1. preferential seating in room;
2. use of study carrel;
3. small-group administration in a separate setting;
4. individual administration in a separate setting; or
5. location with minimal distractions.

C. Flexible Presentation

Flexible presentation includes changes in how an assessment is given to a student. The main types of presentation accommodations are format alterations or procedure changes. The following are types of flexible presentations:

1. using an interpreter to sign directions or questions;
2. using a reader to read directions;
3. reading the test to the student (not to be used on sections measuring reading or reading comprehension);
4. allowing the student to read the test aloud to him or herself;
5. rereading the test directions;
6. answering questions about test directions;
7. increasing the spaces between items;
8. reducing the items per page or line;
9. increasing the size of answer bubbles;
10. highlighting key words or phrases in directions;
11. explaining directions to student any time during the test;
12. using one complete sentence per line in reading passages;
13. using the bubbles to the side of choices in multiple-choice exams;
14. using cues on answer form (e.g., arrows, stop signs);
15. writing helpful verbs in directions on the board or on a separate piece of paper;
16. simplifying language, clarifying or explaining directions;
17. providing extra examples; and
18. prompting the student to stay focused on the test, move ahead, read entire item.

D. Flexible Responses

The main types of flexible responses are format alterations, procedure changes, and use of assistive devices. The primary reason for providing response accommodations is to meet needs related to physical and sensory disabilities that limit the student's ability to respond. However, processing difficulties that limit the ability to get a response may also be a reason for requesting such accommodations. Examples of flexible responses include:

1. use of a scribe;
2. marking in the test booklet rather than on an answer sheet with bubbles;
3. increased spaces on answer sheet;
4. wider lines or margins;
5. responses given by student in sign;
6. student points to response;
7. student dictates response; and
8. use of a computer with spelling and grammar checker turned off.

E. Timing Accommodations

Timing accommodations may be appropriate when:

1. certain equipment takes more time to use (requires special approval from the state testing coordinator); or
2. some accommodations create fatigue, such as the use of magnification equipment or tape recorders and earphones, thus requiring additional breaks, but *not more total working time*.

Cautions: Timing accommodations may also work to the detriment of a student. Providing additional breaks may cause a loss of concentration or interrupt a sequence in a section of the test. Extending the time allowed to finish a test may result in the student incorrectly changing answers. Extending time to complete the test is rarely an acceptable accommodation for the Idaho statewide assessment program.

F. Assistive Technology

Types of assistive technology that would be appropriate to use during assessments may include:

1. use of study carrel;
2. use of adaptive or special furniture;
3. magnification or amplification devices;
4. audio taped administration (notify the SDE in advance for DMA/DWA);
5. computer reads directions and/or items;
6. noise buffer;
7. templates to reduce visible print;
8. markers or masks to maintain place;
9. dark or raised lines;
10. pencil grips or large diameter pencil;
11. magnets or tape to secure papers to work area;
12. white noise;
13. slant board or wedge;
14. communication device;
15. brailler;
16. word processor or typewriter (spell checker not allowed if spelling is being tested);
17. special lighting;
18. special acoustics;
19. large print or Braille version; and
20. use of a calculator or abacus on math reasoning sections (not to be used on sections measuring math computation skills).

Appendix 4E

EXTENDED SCHOOL YEAR

Extended school year (ESY) services should be considered annually for all students who have an individualized educational program (IEP). The district must provide ESY services to students with disabilities who qualify for such services. Extended school year programs for eligible students must meet the requirements of a free appropriate public education (FAPE).

A. Definition

"Extended school year services" means special education and related services provided beyond the regular school year that are:

1. provided to a student with a disability;
2. beyond the normal school year of the district;
3. in accordance with the student's IEP; and
4. at no cost to the parent/adult student.

The goal of ESY is to assist students with disabilities with the emergence, maintenance, or critical generalization of specific IEP goals and benchmarks/objectives learned the year preceding the ESY. These may include goals and benchmarks/objectives related to self-sufficiency, behavior, socialization, communication, and academics. ESY services for special education students provide a different focus from general summer school programs.

The legal foundation for ESY services comes from case law relating to FAPE. Some students with disabilities cannot receive an appropriate education if they do not receive some type of ESY program.

B. Determination of the Need for ESY

ESY services can be based on one or more of three general areas using the following guidelines. When the answer is "yes" to all questions within one area, there is a strong indication that ESY services are warranted.

1. Emerging Skill

   ESY must be considered when few, if any, gains are made during the general school year and a critical skill is in the process of emerging. In addition, the IEP team believes that with ESY services the student could make reasonable gains. The IEP team should collect documentation to determining the following:

a. Does progress toward goals and benchmarks/objectives over an extended period show few if any gains?

b. Is a skill emerging?

c. Does documentation support that ESY services are needed to avoid irreparable loss of the learning opportunity?

2. Regression-Recoupment

ESY services must be considered when the student would regress to such an extent and the amount of time required to relearn skills or behaviors would become so significant that the student would be unable to benefit from his or her special education program. The IEP team should collect documentation to determining the following:

a. Do progress reports and data show that the student demonstrates periodic regression that is related to breaks in instruction throughout the school year?

b. Do progress reports and data show that the student regresses and cannot relearn the skills in a reasonable amount of time following the breaks?

c. Does documentation support a finding that without ESY services the student would regress to such an extent and have such limited recoupment ability that he or she would be unable to benefit from his or her special education program?

3. Self-sufficiency

ESY services must be considered when the acquisition of critical life skills that aid in the student's ability to function as independently as possible would be threatened by an interruption in services. In addition, the IEP team believes that continued services would reduce the student's reliance on caretakers or institutionalized care. The IEP team should collect documentation to determining the following:

a. Does documentation identify critical life skills that are needed for independence?

b. Will failure to maintain acquired critical life skills cause major or permanent loss of the skills and create a dependence on caregivers?

c. Without ESY services, would the student fail to maintain these critical life skills?

C. ESY IEP Development

ESY services must be clearly delineated in an IEP. The district can meet this requirement by amending the current IEP using an amendment form or developing a complete ESY IEP. Both require an IEP team meeting. A copy of the IEP or amendment and written notice must be sent to the parent and adult student.

D. Basic ESY Concepts

1. To be considered for ESY services, the student must be identified as having a disability and must currently be receiving special education services and/or related services as defined by an IEP or individual family service plan (IFSP).

2. Determination of the need for ESY services must be made only for the immediate period of interruption of the instructional program. The provision of ESY services for the immediate period does not imply that ESY services will be required for subsequent periods.

3. The critical skills that are the focus of the ESY services are determined at the time of the development of the IEP. They must be appropriate for the student, must consider the student's ability to acquire the skill, and must be a priority for the student's developmental age.

4. The student's educational program is based on individual needs and not determined by what programs are readily available within the district.

5. The student cannot be required to fail, or to go for an entire year without ESY services, simply to prove a need.

6. The IEP team will determine the duration, frequency, and type of services that each student will receive during the ESY. The goals and benchmarks/objectives should be continuations of all or part of the previous year's IEP, although ESY instruction may be modified to enhance the emergence, maintenance, and/or generalization of skills.

7. The district will not automatically or categorically exclude or include any student or group from consideration for ESY services. However, only those who will be severely impacted by an extended break in instruction should be enrolled.

8. ESY services may include special education and/or related services. ESY services may be only related services.

9. ESY is not subject to the same LRE considerations that apply during the regular school year. First, the same LRE options may not be available, and second, for some students, the appropriate LRE may be at home with the other family members and with only very limited ESY services.

10. ESY will be provided when ordered by a due process hearing officer. If the district chooses to appeal, the student will be placed in ESY pending the result of the appeals process.

E. When ESY Is Not Appropriate

ESY services were never intended to serve as the only resource available to parents and students. The district is encouraged to assist families in using community resources to meet their particular needs during periods of extended breaks. The district should not offer ESY services when it is inappropriate to do so. The following list is intended to help clarify decisions on ESY services.

1. The IDEA does not mandate that year-round services be provided for all students with disabilities.

2. ESY services are not required for the convenience of the school or parent/adult student and, therefore, cannot serve as a day-care or respite-care service.

3. The IDEA does not require that ESY services be provided to maximize educational opportunities for a student with a disability.

4. It is not necessary to continue instruction in all of the previous year's IEP goals and benchmarks/objectives during the ESY period. The focus should be on those specific goals and objectives that would be severely impacted by an extended break in instruction.

5. ESY programs are not summer recreation programs.

6. ESY services are not to be considered in order to help students with disabilities advance in relation to their peers.

7. ESY services are not designed for students who exhibit random regression or regression that is solely related to medical problems resulting in degeneration, or who are experiencing transitional life situations such as divorce or death of a family member.

F. Data Sources for ESY Decisions

Decisions for ESY services must be based on data collection and written documentation. Types of data may include, but are not limited to, those on the following list.

1. **Criterion-referenced test data:** Consider daily/weekly probes or pre-test/post-test data.

2. **Norm-referenced test data:** Consider pre-test/post-test data.

3. **Anecdotal records:** Consider information collected throughout the school year.

4. **Physical, mental, emotional, or health factors:** Consider the educational, medical, or psychological records of the student as well as the prognosis or judgments of educators, medical personnel, parents, and others that work with the student. Consider degenerative

types of difficulties that may become intensified during breaks in educational programming.

5. **Past history:** The IEP team should consider evidence of past regression, or past ESY services. It should not automatically be assumed that a student who has received ESY services in the past will be eligible in the future, but it is a factor to consider.

6. **Data-based observations:** Consider empirical data maintained on the student from performance in the classroom or community-based activities as well as the IEP data.

7. **Teacher interviews and recommendations:** Consider progress reports by teachers, therapists, and others having direct contact with the student before and after breaks in educational programming.

8. **Parent/adult student input:** Consider parent observations of the student as well as parent/adult student requests for ESY services.

G. ESY Program Models

The IEP team will determine the duration, frequency, and type of services that each student will receive during the ESY. The goals and benchmarks/objectives should be continuations of all or part of the previous year's IEP, although ESY instruction may be modified to facilitate the emergence, maintenance, and/or generalization of skills.

ESY instruction may not necessarily be provided in a classroom setting. For example, some students may need services provided in the home or at an alternative location.

Types of ESY programs may include, but are not limited to:

1. training for the parent before breaks in programming;

2. home-based programs that may include parent training;

3. school-based programs;

4. cooperative programs with other agencies;

5. contracting with another agency; and

6. related services.

H. ESY in Year-Round Schools

The need for ESY services is less critical when schools operate on a year-round basis because the breaks from instruction are shorter than the normal three-month break. When the student's needs require instruction during breaks, ESY must be provided. The analysis for determining eligibility and the type of ESY program to be provided is the same as that for ESY programs in schools that operate on a traditional calendar.

I. Staff Considerations

Staffing options might include local certificated staff, supervised university practicum students, supervised student teachers, trained paraprofessionals, cooperative multidistrict programs, or contracted/purchased services with agencies.

J. In Case of a Dispute

It is important for the district to make decisions regarding the provision of ESY services for a student early enough in the school year to allow a parent/adult student time to request a due process hearing if he or she disagrees with the decision of the IEP team. If the parent/adult student disagrees with the decision of the team not to provide ESY services, and the district has not allowed sufficient time for the parent/adult student to dispute the decision through due process, the student should be provided with ESY services pending the outcome of the due process hearing.

The parent/adult student should be given a reasonable amount of time after being notified to respond to a district's decision to not provide ESY services to the student. If a timely response is not received, then the district is not required to provide the student with ESY services pending the outcome of a due process hearing. All time restrictions should be reasonable and should be clearly explained or otherwise made known to the parent/adult student.

Appendix 5

Appendix Contents

There is no appendix for Chapter 5.

Note: Appendices in the *Special Education Manual* contain a variety of technical assistance information, including sample letters and forms, suggestions for dealing with special education issues, and copies of various laws. The appendices should be viewed as additional resources to Chapters 1-10 in the *Special Education Manual*. The district is *not required* to adopt as policy or procedure any of the appendices in this manual to receive IDEA funding.

Appendix 6

Appendix Contents

Nondiscriminatory Diplomas, Transcripts, and Grading Policies A-103

Note: Appendices in the *Special Education Manual* contain a variety of technical assistance information, including sample letters and forms, suggestions for dealing with special education issues, and copies of various laws. The appendices should be viewed as additional resources to Chapters 1-10 in the *Special Education Manual*. The district is *not required* to adopt as policy or procedure any of the appendices in this manual to receive IDEA funding.

Appendix 6

NONDISCRIMINATORY DIPLOMAS, TRANSCRIPTS, AND GRADING POLICIES

Section 1. Diplomas and Transcripts

A. Wording on Diplomas

The district will use a regular diploma for special education students at the completion of their secondary school program. A modified or differentiated diploma or certificate may not be used for special education students unless the same diploma or certificate is granted to students without disabilities in the same graduating class.

Any variation in wording on the diploma may be permissible provided it is not based upon disability. When using different wording, it must reflect objective criteria and be available to all students on a nondiscriminatory basis. If the district wishes, diplomas for *all* students may state that each student's academic transcript contains the exact courses or subjects completed.

To graduate, students with disabilities must either meet the same graduation requirements as other students or meet criteria for graduation established by the individualized education program (IEP) team. Students with disabilities have the same right to participate in graduation ceremonies and to receive a diploma as all other students of the same age.

B. Wording on Transcripts

Course designations on transcripts that indicate a course is used only in special education programs involving students with disabilities would be a violation of Section 504 of the Rehabilitation Act of 1973 (Section 504). The following guidelines apply:

1. Accommodations need to be provided which allow each student to complete and demonstrate that he or she has met graduation requirements. Reasonable accommodations that do not fundamentally alter graduation requirements will not be noted on transcripts.

2. A district may use asterisks or other symbols on a transcript to designate a modified curriculum in general education, provided the grades and courses of all students with curriculum modifications are treated in a like manner. For example, if the modification code system covers enhanced or greater difficulty course work completed by gifted and talented program students as well as students taking remedial courses, then the use of such an indicator is allowable under Section 504 and the Americans with Disabilities Act (ADA).

3. A district may not identify a student as having a disability or identify special education classes on a high school student's transcript to indicate the student has received modifications in the general education classroom. Course designations that do not suggest special education programs but, rather, impart more general connotations—such as "basic," "level 1," "practical," or "general"—may be used as long as they are applicable to remedial courses taken by students without disabilities for a variety of reasons. Other designations—such as "independent study (I.S.)" or "modified curriculum"—may be used if they are also used in courses other than special education. Examples of transcript labels to avoid are "Learning Center (L.C.)," "homebound instruction (H.B.)," "resource room," etc. If the course designation suggests it is only used in special education programs involving students with disabilities, it may be a violation of Section 504.

4. Academic transcripts must not be released to prospective employers or postsecondary educational institutions without the permission of the student. If a transcript contains notations or codes indicating modifications in course work difficulty, the district will take steps to notify each student of what modification notations his or her academic transcript contains before releasing it to another party.

5. A district can disclose the fact that a student has participated in special education courses to a postsecondary institution if:

    a. the parent/adult student has knowledge of what information is on the transcript; and

    b. the parent/adult student has given written consent.

Section 2. Grades, Class Ranking, and Honor Roll

A district is permitted to set eligibility criteria for class ranking or honors, provided it does not arbitrarily discount or exclude grades received by students with disabilities with the assistance of special education services.

A. Nondiscriminatory Class Ranking and Honor Roll Policies

Section 504 requires that with respect to grades, class ranking, and honor rolls, students with disabilities must be treated the same as all other students.

1. Grades earned by students with disabilities cannot categorically be disregarded or excluded from districtwide grade point average (GPA) standings. Eligibility for honor awards cannot be decided on the basis of special education status alone.

2. Weighted grading systems are permissible where the district can show that such a system is based on objective rating criteria. For example, an "A" earned in advanced

algebra may be worth 5 points compared to an "A" in basic arithmetic being worth 3 points. If such a system is used, the district will have the responsibility to justify the various weights assigned, if challenged. Each subject or course must be analyzed separately and assigned a degree of difficulty based on its individual contents. A district may not implement a weighted grading system that arbitrarily assigns lower grade weights to only special education courses. One obvious advantage of this system is that it does not discourage students from taking more challenging courses. A "B" or even a "C" earned in a tougher-rated course can still be worth more points for purposes of academic comparisons than an "A" in a less challenging course.

3. Designating core courses that are used to determine honors, class ranking, or participation in certain activities is also allowed where all students receive the opportunity to take such courses. Designating core classes is allowed as long as the classes are available to all students, not just students with disabilities.

B. Modified Grades

In cases where a student with a disability receives special education accommodations in the general education classroom, it may be permissible for the district to use a modified grading system if it is also used for the general student population.

1. Grades cannot be modified on the basis of special education status alone.

2. Nondiscriminatory titles may be used for classes, report cards and transcripts to designate adaptations made in general education classes (e.g., basic sophomore English and practical 9th grade mathematics may be used instead of sophomore English and 9th grade mathematics).

3. Students with and without disabilities may receive grades for performance in adapted classes (e.g., basic sophomore English) based on standards that are different from the standards used in nonadapted classes (e.g., sophomore English).

4. Modifications in general education requirements, such as adapted classes having different grading standards, must be listed on the IEP.

5. If a student with a disability takes a general education class for noncredit, the district can exclude the student from grading and evaluate the student based on the IEP objectives/benchmarks.

6. Students may be graded and receive credit totally from general educators, combinations of general and special educators, or from special educators alone. The student's IEP should address any alternative grading procedures.

7. At the elementary level, report cards may show asterisked grades that refer to one or more types of special program models received by the student, such as resource room, self-contained room, classes under Title I of the Elementary and Secondary Education Act (ESEA), enrichment classes, adaptive physical education, speech therapy, etc.

C. Contracting for Grades

The IEP team may use grading contracts with a student with a disability to make necessary modifications in course expectations. Sample grading contracts are included at the end of this appendix on pages 108-109.

1. When using contracts the following components should be specified:
    a. work/performance the student is to do;
    b. performance standards for each grade the student can earn;
    c. how the work will be evaluated;
    d. time lines for the completion of the work; and
    e. signature of the student, parent, and teacher(s).
2. There are some advantages in contracting for a grade:
    a. Contracts help students see a direct relationship between their work and their grade. They know exactly what it takes to earn a given grade.
    b. Contracts help students assume responsibility for their own performance. Some students blame others for their own failures. This is harder to do with a contract.
    c. A diversity of tasks and assignments can be included.
    d. Contracts reduce competitiveness in grading by individualizing expectations.
    e. Contracts acknowledge the ability of the student to participate in goal setting.
3. There are also some disadvantages in contracting for a grade:
    a. Contracts add additional record keeping.
    b. Quantity rather than quality of work may be overemphasized.
    c. Finding creative ways to measure student performance can be challenging.

d. Students may protract negotiations about performance and measurement.

See sample grading contracts on the next two pages.

GRADING CONTRACT (Sample A)

In order to earn a grade of _____, I, ______________________________, agree to perform the following work: ______________________________

____

____

My work will be finished by [date(s)] ____________________. In order to earn this grade, my work will be evaluated by the following standards: ____________________

____

____

____

If I fail to fulfill this contract, the consequences are: ____________________

____

____

____

Student Signature: ______________________ Date: ______________

My responsibilities as ____________________ 's teacher will be to: __________

____

____

Teacher Signature: ______________________ Date: ______________

Parent Signature: ______________________ Date: ______________

GRADING CONTRACT (Sample B)

Student: ______________________________ Teacher: __________________________________

Class: ________________________________ Period: _______________ Year: ____________

Reason for Modification Plan: ____

To be successful in the above class, the student will do the following:

1. follow the attendance rules and requirements of the school;
2. follow all classroom rules;
3. complete and hand in all assigned work by the agreed upon date for each assignment;
4. put forth the necessary best effort; and
5. communicate with the teacher if there is a question regarding the assignment, or if the student is experiencing difficulty completing the task.

Specific modifications in this class that the student, parent, and instructor have agreed upon are:

____

____

____

____

____

____

If a class has been modified to meet the student's needs, this will/will not (circle one) be noted on the student's transcripts.

Student Signature: _____________________________________ Date: ____________________

Teacher Signature: _____________________________________ Date: ____________________

Parent Signature: ______________________________________ Date: ____________________

Copies should be given to: Building Counselor
Cumulative Folder
Resource or ESL Teacher
Student
Parent

Appendix 7

Appendix Contents

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Note: Appendices in the *Special Education Manual* contain a variety of technical assistance information, including sample letters and forms, suggestions for dealing with special education issues, and copies of various laws. The appendices should be viewed as additional resources to Chapters 1-10 in the *Special Education Manual*. The district is *not required* to adopt as policy or procedure any of the appendices in this manual to receive IDEA funding.

Appendix 7A

TRANSFER OF SPECIAL EDUCATION RIGHTS

At the age of 18, individuals with or without disabilities are legally responsible for making decisions for themselves. However, if a person lacks the ability to provide informed consent, a parent or other interested person may want to explore options to assist that individual with making decisions. Educators who work with young adults with disabilities, and parents of individuals with disabilities, must understand the issues regarding special education rights, guardianship, conservatorship, and power of attorney. This appendix has been prepared to provide an overview of those issues.

Section 1. Age of Majority

An "adult student" is a student with a disability, 18 years of age or older, to whom rights have transferred under the Individuals with Disabilities Education Act (IDEA) and Idaho Code. Special education rights will transfer from the parent to the adult student unless the IEP team determines that the student is unable to provide informed consent with respect to his or her educational program or the parent has obtained legal guardianship including the scope of educational matters. When rights have transferred to the adult student, the parent retains the right to notice along with the student. Therefore, whenever notice is required to be given to the adult student, the parent also receives a copy of the notice.

At least one year before the student turns age 18, the IEP team needs to discuss whether special education rights will transfer to the student on his or her 18th birthday. The student and parent are essential IEP members to be present at this meeting. After reviewing all relevant information related to the student's ability to understand and make informed decisions regarding educational matters, the team determines if there is any reason to prohibit the transfer of rights. If there is no compelling reason to prevent the transfer rights, the student must be informed of special education rights that will transfer at age 18. The student's IEP will contain a statement that the student has been so informed.

Section 2. Self-Advocacy and Self -Determination

The transfer of rights to a student at age 18 means that the secondary student will need support in understanding all of the special education rights and their implications. Research has shown that to achieve their goals and dreams, successful secondary students make the decision early on to confront their disabilities, learn to be decision-makers, and lead their own lives. Therefore, it is appropriate for educators to take measures in teaching secondary students to actively participate in and even direct their own IEPs by using problem solving, self-determination, and self-advocacy skills to help them become aware of their needs and abilities. There are various curricula and resources available which can be integrated into lesson plans and IEP transition goals so secondary students who reach age 18 know what they want and how to get it. Refer to Appendix 4B, page A-77 for a list of resources.

Before the IEP meeting to discuss the transfer of rights, all evaluation data, test results, education records, teacher observations, student input, and parent input, including whether the parent intends to seek guardianship when the student turns 18 years old, should be reviewed by the IEP team. All of this information is used to decide if there is any reason why rights should not transfer.

Consideration should be given to the information or evidence that helps the IEP team answer the following questions:

1. Is the student capable of understanding his or her rights?
2. Is the student capable of exercising his or her rights?
3. Is the student capable of understanding the consequences of his or her decisions?

If the IEP team can answer yes to the questions stated above, then educators and parents should begin to look at how to assist the student in using the rights afforded to him or her at age 18. The IEP team can develop or revise an IEP to include activities and services that may assist the student. Even though the rights will transfer when the student actually turns age 18, the parent will still be a person very knowledgeable about the student; therefore, he or she can act as a member of the IEP team, invited by the student, the district, or both.

If the IEP team determines that the student lacks the ability to provide informed consent with respect to his or her educational program, the parent retains all special education rights. However, there is nothing in federal or state law that prohibits the IEP team from changing its decision at a later point in time. Of course, a new decision would be based on new information and input.

Section 3. Emancipated Minors

Idaho law does not provide for the emancipation of minors. However, minors who have been emancipated by a court of law in another state are considered an adult in Idaho. Emancipated minors should be able to provide the legal court document awarding them the power and capacity of an adult. A student under age 18 who claims to be an emancipate minor but is unable to provide documentation should be assigned a surrogate parent by the district if a parent cannot be located.

Students under the age of 18 who are married to an adult, 18 years or older, are not emancipated minors in Idaho and do not have the power and capacity of an adult student. Instead, the spouse actually acts as the guardian of the student regarding legal rights and responsibilities.

Section 4. Guardianship

A. Definition

Guardianship is a court-ordered relationship between a competent adult (the guardian) and an adult with a disability. It is a means by which the law deals with the problems associated with an individual's inability to make decisions and give consent, i.e., how to have someone act (consent) for others who are unable to act for themselves. Both individuals and public and private agencies may serve as guardians.

A parent of a child under the age of 18 is the natural guardian of his or her child, and a court appointment is not necessary to create or validate the status of the parent. However, a parent does not automatically remain the guardian of a son or daughter with a disability when the son or daughter turns 18 years old. Only a court order can appoint the parent as guardian of his or her son or daughter who is 18 years of age or older. Educators who are working with students who will be turning 18 years of age should assist families in contacting the appropriate agency for assistance.

B. Scope of Guardianship

The scope of a person's guardianship, whether it be complete or limited, should be tied to the extent of the person's competence. Thus, there are two types of guardianship:

1. Complete (or plenary) Guardianship

   Plenary means "full, complete, and unlimited." A plenary guardianship is one that gives the guardian full, complete, and unlimited authority to consent on the individual's behalf.

2. Limited (or partial) Guardianship

   A limited guardianship (sometimes called partial guardianship) recognizes that the individual has partial competence in at least some areas of decision making and therefore is able to give direct consent for some kinds of decisions.

The court order will specify the nature and scope of the guardianship.

C. Authority of Guardian

After a court appointment, the guardian becomes a substitute decision maker for the person with the disability. In addition, the court gives the guardian the authority to exercise specific rights on behalf of the person with the disability and takes those rights away from the person with the disability.

The powers of the guardian may include the following:

1. authority to determine the individual's residence, care, habilitation, education, and employment;
2. responsibility to assure that the individual's basic needs for food, clothing, and shelter are met;
3. authority to consent to medical care needed by the individual; or
4. responsibility to keep the individual's financial affairs in order.

Neither the Idaho Department of Education (SDE) nor the district has the responsibility or the authority to appoint a guardian for a student with a disability. If the parent or a relative wants to become the guardian of an individual with a disability, the district should direct him or her to contact legal counsel.

Section 5. Conservators

A conservator is a person appointed by a court to manage or make decisions about the property of a protected person. Appointment of a conservator may be made if the court determines the following:

1. The person is unable to manage his or her property and affairs effectively for reasons such as mental illness, mental deficiency, physical illness or disability, chronic use of drugs, chronic intoxication, confinement, detention by a foreign power, or disappearance.
2. The person has property which will be wasted or dissipated unless proper management is provided, or funds are needed for the support, care, and welfare of the person or those entitled to be supported by him or her, and that protection is necessary or desirable to obtain or provide funds.

Section 6. Power of Attorney

The provision of designating a power of attorney can be used for circumstances involving students with or without disabilities at any age. A power of attorney is the designation by a competent person of another to act in place of or on behalf of the first person. A power of attorney differs from a guardian or conservator in several ways. First, a power of attorney is a *voluntary* designation by a person of sound mind; whereas the appointment of guardians and conservators is an *involuntary* process requiring a judicial recognition. Second, the person granting the power of attorney is free to define the scope of authority of the designated person;

however, power of attorney is usually given for limited and narrowly defined purposes. For example, a parent who is out of state for an extended period may designate power of attorney to a personal care provider in the areas of medical emergencies or educational decisions for his or her child. Idaho's living will law allows designating a person with power of attorney to make medical care decisions in the event of mental disability.

Normally, the authority of a designated power of attorney ceases on the disability or incapacity of the principal, which in most situations is the parent. A durable power of attorney, however, remains effective even after the disability or incapacity of the principal. To be a durable power of attorney, the written document designating the power of attorney must clearly state the intent of the principal that the authority conferred is exercisable notwithstanding the principal's subsequent disability or incapacity.

Appendix 7B

SPECIAL EDUCATION RIGHTS STATEMENT

The Individuals with Disabilities Education Act (IDEA) entitles all eligible students with disabilities to a free appropriate public education (FAPE). As a parent of a student with a disability, or an adult student with a disability if rights have transferred to you, IDEA and state law provide you with specific procedural safeguards or rights. This *Special Education Rights Statement* gives you an explanation of the following rights:

Section	Title
A.	Consent
B.	Written Notice
C.	Evaluation/Reevaluation Procedures
D.	Independent Educational Evaluation
E.	Individualized Education Program/Least Restrictive Environment
F.	Resolving Disagreements About the Education Program
G.	Mediation
H.	Formal Written Complaint
I.	Due Process Hearing
J.	General Provisions for Discipline under the IDEA
K.	Procedures for Disciplinary Placement in an Interim Alternative Educational Setting
L.	Expedited Due Process Hearing
M.	Attorneys' Fees
N.	Requirements for Unilateral Placement in a Private School/Facility at Public Expense
O.	Education Records

Your school district can provide more information on these rights. If you have questions, you should speak to the special education teacher, school principal, director of special education, or superintendent in the district. Additional sources of information on your rights can be found at the end of this rights statement.

Abbreviations

CAP	corrective action plan
ECR	early complaint resolution
FAPE	free appropriate public education
FERPA	Family Educational Rights and Privacy Act
IAES	interim alternative educational setting
IDEA	Individuals with Disabilities Education Act
IEE	independent educational evaluation
IEP	individualized education program
IFSP	individualized family service plan
LRE	least restrictive environment
SDE	Idaho State Department of Education

A. Consent

Consent, indicated by your signature, means that you have been fully informed, understand, and agree to certain educational activities before they take place. The request for consent will describe the activity and list records, if any, that will be released and to whom. Your consent is voluntary and may be revoked at any time prior to the action.

You have the right to:

1. **Provide written consent before assessments take place when the district evaluates or reevaluates.**
2. **Provide written consent before special education services are provided for the first time.**
3. **Provide written consent before personally identifiable information is disclosed to unauthorized persons. Refer to Section N, "Education Records," for a list of exceptions to this right.**
4. Provide written consent to use an individualized family service plan (IFSP) instead of an individualized education program (IEP) when a child is transitioning from Part C services to Part B services.
5. Refuse or withhold consent.
6. Revoke consent if the action has not already taken place.

If you refuse to give written consent for an initial assessment or for special education services for the first time, the district may ask for mediation or a due process hearing. If you fail to respond to reasonable measures by the district to obtain your consent for assessments during a reevaluation, personnel may proceed with the assessments.

B. Written Notice

You have the right to:

1. Receive written notice a reasonable time before the district initiates or changes the identification, evaluation, educational placement, or the provision of FAPE. If you ask the district to initiate or change any of these matters, the district must consider your request and give you written notice within a reasonable amount of time informing you that the district will grant or refuse your request. Reasonable time has generally been defined as 10 calendar days. The notice will include:
    a. A description of the action proposed or refused.
    b. An explanation of why the district proposes or refuses to take the action.
    c. A description of other options the district considered and the reasons why those options were rejected.
    d. A description of each evaluation procedure, test, record, or report the district used as a basis for the proposed or refused action.
    e. A description of any other factors that are relevant to the district's proposal or refusal.
    f. A statement informing you of your rights under the IDEA and how to obtain a copy of this *Special Education Rights Statement*.
    g. Sources for you to contact to obtain assistance in understanding your rights.

2. Receive the notice in writing most people can understand. If you cannot read, the notice can be read to you. If you do not understand English, the notice may be translated for you. The district must have written evidence that these requirements were met.

3. File a written objection if you disagree with an IEP change or placement change proposed by the district. If your written objection is postmarked or hand delivered within 10 calendar days of receiving the district's written notice of a proposed change, the proposed change that you object to cannot be implemented. However, the district may request another IEP team meeting, voluntary mediation, or a due process hearing to resolve the disagreement. The written objection cannot be used to prevent the district from placing a student in an interim alternative educational setting (IAES) in accordance with IDEA procedures for discipline of a student with a disability.

C. Evaluation/Reevaluation Procedures

A full and individual evaluation of educational needs must be conducted before a student can be found eligible for and receive special education. A referral to consider a special education evaluation can be made by anyone, including you.

After the referral is made, an evaluation team, which includes you, will be formed. This team will review existing evaluation data on the student and input from you to decide whether an evaluation is needed. The team will also decide what additional information, if any, is needed to conduct the evaluation.

In conducting an evaluation, the district will gather information related to the student's involvement and progress in the general education curriculum through observations, interviews, tests, a review of records, and information provided by you. All of this information will be used by the evaluation team to determine whether the student is eligible for special education and then by the IEP team to develop the IEP.

Once a student is eligible for special education, a reevaluation must be completed every 3 years, or sooner if you or the student's teacher have concerns and request one. Before any reevaluation, the evaluation team will review existing information and determine if additional information is needed to decide if the student is still eligible. If no additional assessments are required, you will be provided written notice of that decision. However, you have the right to request any assessment to determine whether the student is still eligible. A reevaluation must be conducted before determining that a student is no longer eligible, except when a student receives a diploma for completing regular graduation requirements or completes the semester in which he or she turns 21 years old.

As a member of the evaluation team, you have the right to:

1. Review existing evaluation data and give input for the evaluation.
2. Participate in deciding what additional data is needed or request assessments to determine eligibility.
3. Participate in determining eligibility for special education services.
4. Participate in meetings with respect to identification and evaluation, if convened by the district.
5. Request a meeting.
6. Receive a copy of the eligibility report and any additional eligibility documentation.

D. Independent Educational Evaluation

If you disagree with an evaluation conducted by the district, you have the right to an independent educational evaluation (IEE) by a qualified examiner(s) who does not work for the district. The IEE might be provided to you at no cost, but first the district must have had the opportunity to complete an evaluation. If you believe additional assessments or procedures are needed beyond those conducted by the district to determine eligibility, you are not automatically entitled to them. You should ask the district for further assessments, and if the district refuses, you may request mediation or a due process hearing.

If you request an IEE, the district may ask why you disagree with the district's evaluation but you do not have to provide an explanation. The district must either provide you with information about where an IEE may be obtained or initiate a due process hearing within 10 days to show that its evaluation is appropriate. If a hearing decision is that the district's evaluation is appropriate, you still have the right to an IEE, but at your own expense.

Whenever you request or obtain an IEE, the district must also give you the criteria it uses when an evaluation is conducted. This includes:

1. location for the evaluation;

2. **required qualifications of the examiner;**
3. **state eligibility criteria for special education; and**
4. **maximum allowable charges for specified evaluations to eliminate unreasonably excessive fees, including travel costs for necessary services not available in the community.**

If you can demonstrate that unique circumstances justify an IEE that falls outside the district's cost criteria, then it will be publicly funded. A hearing officer may order that an IEE be conducted as part of a hearing. In that case, the IEE must be publicly funded.

If you obtain an IEE that meets the district's IEE criteria and make the evaluation available, the district must consider the results in any decision made about providing FAPE. You may also present the results of an IEE at a due process hearing. This is true regardless of whether the IEE was at your expense or public expense.

E. Individualized Education Program/Least Restrictive Environment

The individualized education program (IEP) is the written educational plan for special education and related services to be provided by the district. You and the district design the IEP together. It is reviewed and revised at least once each year.

The IEP becomes the basis for determining placement in the least restrictive environment (LRE). LRE provisions require that the student be enrolled in the school he or she would attend if non-disabled unless the IEP requires another arrangement. If the student cannot be educated in the neighborhood school, the LRE placement should be as close to the student's home as possible. The district's reassignment of a student to another classroom or school is not a change in LRE placement when the IEP goals remain unchanged and the degree of interaction with non-disabled peers remains the same. Removal from the general educational environment occurs only when the disability is such that education with the use of supplementary aids and services cannot be achieved satisfactorily. A student may not be removed from education in age-appropriate classrooms solely because of needed modifications in the general education curriculum. To the maximum extent appropriate, students with disabilities should be educated with students of similar chronological age who are non-disabled.

You have the right to:

1. Participate as a member of the IEP team to develop the IEP and determine the LRE placement either in person or by other means.
2. Be informed of the time, date, location, who is invited, and the purpose of IEP team meetings.
3. Receive a copy of the *Special Education Rights Statement* before IEP meetings.
4. Bring someone (advocate, friend, service coordinator) to the meeting if you wish.
5. Receive a copy of the IEP.
6. Have an array of LRE placements available to meet the student's needs.

F. Resolving Disagreements About the Educational Program

At times, you and the district may disagree with the identification, evaluation, placement, or the provision of FAPE. You are encouraged to contact the district and use various methods to resolve any differences as soon as they arise. You also have the right to file a written objection if the district proposes an IEP change or placement change that you disagree with. (See Section B of this statement.) If you are unable to resolve disputes with the district, you may contact the district or call the SDE, (208) 332-6910, about four state-administered options. These options include mediation, a formal complaint, a due process hearing or an expedited due process hearing. Each of these options is further explained in the following sections:

G. Mediation

Mediation is a structured yet informal process for resolving conflict. It is voluntary and is provided at no cost to you or the district. A SDE mediator is an impartial person, not employed by the district, who is trained in communication and mediation skills. He or she will meet with you and the district to try to reach a mutual written agreement. If you have already requested a due process hearing or filed a complaint, you may also request mediation. Mediation does not interfere with the rights or the time lines for a complaint or hearing. To request mediation, contact your district or the Dispute Resolution Specialist at the State Department of Education, 208-332-6912.

H. Formal Written Complaint

If you believe the district has violated a requirement of the IDEA, you may file a formal complaint with the SDE. The complaint must be in writing and signed. It must include the current date and the name, address, and telephone number of the student and the person making the complaint. It must include one or more allegations (statements) that the district has violated IDEA requirements and the facts to support the allegation(s). The alleged violations may not be older than one year from the date the complaint is filed unless the violation is considered to be ongoing or you are requesting compensatory services for a violation that occurred not more than 3 years ago.

The SDE's resolution of a formal complaint may be achieved through any combination of the following:

1. meeting with the parties and facilitating a mutually agreed to Early Complaint Resolution (ECR);
2. reviewing and approving a Corrective Action Plan (CAP) proposed by the district that addresses one or more allegations in the complaint;
3. conducting an investigation of the complaint; and
4. verify information from the district that documents that one or more allegations have been resolved.

A written decision will be issued within 60 days and will include the findings of fact, conclusions, and procedures for implementation of the SDE's final decision, if needed. The SDE will set aside any part of a complaint that is being addressed by a due process hearing until the conclusion of the hearing. Mail complaints to the Dispute Resolution Specialist, Idaho State Department of Education, Bureau of Special Education, P.O. Box 83720, Boise, ID, 83720-0027.

I. Due Process Hearing

There are two different types of due process hearings.

- A regular due process hearing may be requested by you or the district on any matter relating to identification, evaluation, educational placement, or the provision of FAPE. A decision will be made within 45 calendar days, unless otherwise extended.

- An expedited due process hearing is used only for behavior and disciplinary issues. (See Section L of this statement.)

Due process hearing requests must be in writing and include the student's name, address, school, a description of the nature of the problem, relevant facts, and a proposed answer to the problem. A model form for requesting a hearing can be obtained from the district or the SDE. The SDE will provide reasonable accommodations to individuals who need assistance in filing a written request. The request may be sent to your district's superintendent, director of special education, or the Dispute Resolution Specialist, State Department of Education, Bureau of Special Education, P.O. Box 83720, Boise, ID, 83720-0027.

You have the right to:

1. **Have the hearing conducted by a trained impartial hearing officer who is not employed by any agency involved in the education or care of the student.**

2. Receive all evaluations completed by the district and the recommendations based on such evaluations at least 5 days before the hearing. Similarly, you are required to provide evaluations that you will use in the hearing to the district.

3. Be informed of any free or low-cost legal services and other relevant services, e.g., names of expert witnesses.

4. Have the hearing at a time and place that allows you to attend. During the hearing, you have the right to:
   a. Attend with, and be advised by, legal counsel and by persons with special knowledge or training about students with disabilities.
   b. Present evidence and confront, cross-examine, and compel the attendance of witnesses.
   c. Prohibit the introduction of any evidence at the hearing that was not disclosed to you at least 5 days before the hearing.
   d. Obtain a written transcript of the hearing or an electronic verbatim record.
   e. Open the hearing to the public if you wish.
   f. Have the student present during the hearing, if appropriate.

5. Receive a written decision with findings of fact and conclusions of law, or an electronic version, no later than 45 calendar days after your hearing request was received. The hearing officer may extend this time line if requested.

6. Maintain the student's current educational placement while the due process hearing is proceeding unless you agree in writing to other arrangements. If the complaint involves a student seeking initial admission to school, the school-age student must be placed in a school until the proceedings are over.

7. Appeal the hearing officer's decision by initiating a civil action in district court. An appeal to civil court must be filed within 42 calendar days from the date of issuance of the hearing officer's decision.

8. If you are successful in a hearing and file a request in district court, you may be awarded reasonable attorneys' fees. (See Section M of this statement for more information.)

J. General Provisions for Discipline under IDEA

The district may use disciplinary removals for students with disabilities, but only to the extent they would be applied to students without disabilities. School personnel may:

1. Suspend a student for not more than 10 consecutive school days. Special education services may cease during this time.

2. Order additional short-term suspensions if they do not constitute a change of placement. A series of suspensions becomes a change of placement when it exceeds 10 cumulative school days in a school year and if a pattern is established by their proximity to one another and the total amount of time. Special education services must be provided after removal for 10 cumulative school days in the same school year.

3. Order a student's removal to an interim alternative educational setting (IAES) for not more than 45 calendar days if the student (1) possesses or carries a weapon to school or a school function, (2) knowingly possesses or

uses illicit drugs, or (3) sells or solicits the sale of a controlled substance while at school or a school function. Special education services must be provided.

4. Request an expedited hearing to place a student in an IAES for up to 45 calendar days if the district can demonstrate that maintaining the student in the current placement is substantially likely to result in injury to the student or others. Special education services must be provided.

5. Seek to obtain a court order to remove a student from the current placement. Special education services must be provided during this time.

6. Expel the student for behavior that is not a manifestation of the disability. Special education services must be provided after 10 cumulative school days of removal in a school year.

K. Procedures for Disciplinary Placement in an Interim Alternative Educational Setting

If school personnel order a disciplinary removal to an IAES, you have the right to:

1. Be notified of the disciplinary action to be taken and to receive a *Special Education Rights Statement* no later than the date on which the decision to take disciplinary action is made.

2. Participate in the selection of the IAES that meets the following criteria:
   a. enables the student to continue to participate in the general education curriculum, although in another setting;
   b. allows the student to continue to receive services and modifications included in the current IEP in order to meet the goals; and
   c. includes services designed to prevent the behavior from recurring.

3. Participate in an IEP team meeting either before or within 10 business days following the disciplinary placement change. The purpose of the meeting is to consider the problem behavior and to:
   a. review and modify the behavioral intervention plan as needed to address the problem behavior; or
   b. develop an assessment plan to address the problem behavior if the district has not previously conducted a functional behavioral assessment and implemented a behavioral intervention plan. Upon completing the assessments, the IEP team will meet to develop and implement appropriate behavioral interventions.

4. No later than 10 school days after the date the district decides to order an IAES, participate in a meeting to review the relationship between the disability and the behavior; this review is called a manifestation determination. The meeting can be held at the same time the IEP team considers a functional behavior assessment and/or behavior intervention plan. The student cannot be expelled for behavior that is related to his or her disability.

5. Request an expedited due process hearing if it is determined that the behavior was not related to the disability and you disagree with that decision or any decision regarding a change in placement, including placement in an IAES. (See Section L of this statement.)

L. Expedited Due Process Hearing

An expedited due process hearing involves disciplinary issues, and shortened time lines apply. You have the right to request an expedited hearing if you disagree with a determination that the behavior was not a manifestation of the disability or the district's discipline decision resulting in a change of placement.

In an expedited hearing, the due process hearing procedures described in Section I of this statement will be used except for the following changes:

1. The hearing officer's written decision must be available within 20 calendar days of the request for a hearing unless an extension, not to exceed 25 calendar days, is agreed to by both parties.
2. The student must remain in the IAES until the hearing officer makes a decision or the IAES time limit runs out unless you and the district agree to another placement during the pendency of the hearing or the appeal.

If the IAES time line runs out during the hearing, the setting prior to the IAES becomes the placement. However, if school personnel maintain that returning the student to that placement would be dangerous, they may request an expedited hearing to ask a hearing officer to continue the IAES or seek a court injunction. This expedited hearing procedure may be repeated, as necessary.

M. Attorneys' Fees

1. If you have participated in a due process hearing or civil court action against the district, you may be able to recover reasonable attorneys' fees and related costs if:
   a. The hearing officer or court determines that you are the prevailing party.
   b. A district court orders the district to pay fees and costs according to prevailing rates in your community for the kind and quality of legal services you received.

2. Attorneys' fees may not be awarded and related costs may not be reimbursed in any action or proceeding for services performed after the time of a written offer of settlement to you by the district if:
   a. The district's offer is made at least 10 days before a due process hearing or civil proceeding begins.
   b. You do not accept the offer within 10 days after it is made.
   c. A court or due process officer finds that the relief you finally obtained from the hearing officer or court action was not more favorable to you than the offer of settlement.
   d. An award of attorneys' fees and related costs may be made to you as a prevailing party if you were justified in rejecting the settlement offer.

3. Attorneys' fees may not be awarded:
   a. for legal representation at an IEP meeting unless such a meeting is convened as a result of a due process hearing or judicial action; or
   b. for a mediation that is conducted before a request for a due process hearing.

4. A court may reduce an award for attorneys' fees if:
   a. During the course of the action or proceeding, you unreasonably extended the final resolution of the controversy.
   b. The amount of the request unreasonably exceeds the prevailing rate in the community for similar services by attorneys of reasonably comparable skills, reputation, and experience.
   c. The time spent and legal services rendered were excessive considering the nature of the action.
   d. The attorney representing you did not provide all of the information required in a due process hearing request.
   e. The amount of attorneys' fees will not be reduced if the court finds that the district or SDE unreasonably extended the final resolution of the action or proceeding.

N. Requirements for Unilateral Placement in a Private School/Facility at Public Expense

1. If the district has made FAPE available in a timely manner and you unilaterally (on your own and without the

district's consent) place the student in a private school, the district is not required to pay for tuition, special education, or related services at the private school. However, the district must meet with representatives of private schools to determine how a proportion of the district's federal funds will be spent on providing some type of special education services to private school students with disabilities residing in its jurisdiction.

2. A court or hearing officer may order the district to reimburse you for the costs of a unilateral placement in a private school only if the student previously received special education services from the district and the court or hearing officer determines that the district did not make FAPE available in a timely manner. However, the cost of reimbursement may be denied or reduced if:
   a. Prior to removal from public school, you did not cooperate with the district if it notified you of the intent to conduct an evaluation of the student.
   b. There is a judicial finding of unreasonableness with respect to your actions.
   c. Before removal from public school, you did not notify the district that you rejected its proposed placement to provide FAPE and did not state your concerns and intent to enroll the student in a private school at district expense by either:
      (1) notifying the IEP team at the most recent IEP team meeting before removal from public school; or
      (2) notifying the district in writing at least 10 business days (including any holidays that occur on a business day) before removal from public school.

3. A court or hearing officer will not deny or reduce reimbursement for failure to provide the notice specified in 2c above if:
   a. The district did not notify you of your obligation to provide the notice specified in 2c above.
   b. The district prevented you from providing such notice.
   c. You cannot write in English or you have a disability that prevents you from providing a written statement.
   d. The court or hearing officer determines that the placement proposed by the district would result in physical or serious emotional harm to the student.

O. Education Records

The IDEA and the Family Educational Rights and Privacy Act (FERPA) contain provisions that protect the confidentiality of student records. These laws also provide for your right to review and inspect records. The district will assume you have the right to inspect and review the student's education records unless the district has received legal documents limiting access to those records. A minor child's address can be deleted from any record, if requested in writing by the custodial parent, to prohibit a noncustodial parent from learning a home address simply by having access to school records. If you are a parent in this situation, be prepared to verify custody of your child.

You have the right to:

1. Request a list of the kinds of education records the school collects, maintains, or uses, and where those records are kept.

2. Inspect and review the student's education records. If you cannot do so at the school, you may ask the district to give you a copy of the records. The district may charge for the copies unless the charge would keep you from looking at the records. The district may not charge a fee to search for or to collect the records. The district must honor your request:
   a. without delay but no later than 45 calendar days after the request;
   b. before any meeting regarding an IEP; and
   c. at least 5 business days before a due process hearing.

3. Have someone explain or interpret the records for you.

4. Give or refuse written consent to allow other people access to the education records. The request for consent must say what specific information has been requested, the purpose of the request, and who will access the records. However, consent is not required to release records when:
   a. School employees have a legitimate educational interest in the records.
   b. A representative of the Federal Comptroller General, the U. S. Department of Education, or the SDE accesses records for evaluation of a federal program or for enforcement or compliance with federal regulations.
   c. A student transfers from one school with the intent to enroll in another school.
   d. There is an emergency to protect the health and safety of the student or other individuals.
   e. A disclosure concerns the juvenile justice systems's ability to effectively serve the student or to comply with court orders or subpoenas, as specified in state law. The district must make a reasonable effort to notify you of the order or subpoena in advance of compliance unless the subpoena specifically states that the request is not to be disclosed.
   f. Organizations conduct studies on behalf of school districts or institutions specified under FERPA criteria.
   g. When the district has designated information as "directory information" through its annual notification.

5. Review a district log of requests for and access to education records if the disclosure is not to the parent, adult student, a school employee with a legitimate interest, or a party seeking directory information. This log includes the name, agency affiliation, date, and purpose for accessing the records.

6. Look only at information about the student in question if the record contains information about another student.

7. Ask the district to amend information in the record if you believe that it is incorrect, misleading, or violates privacy or other rights. If the district refuses to amend the record, you may request a district hearing. If the decision is against the district, the district must amend the record and inform you in writing. If the decision is for the district and the record is not amended, you may place a statement in the record saying why you disagree with the district's record. This statement will be maintained as part of the education record and will be released any time the record is released.

8. Be notified before the district destroys education records that are more than 5 years old and no longer needed to provide educational services. The notice must describe the information that will be destroyed after 45 days and include the procedure to formally object to the destruction of any information and have the records sent to you.

A permanent record of a student's name, address, phone number, grades, classes, immunization, test scores, attendance, grade level and year completed may be maintained by the district without a time limitation.

For further explanation on any of these rights, you may also contact:

State Department of Education
Bureau of Special Education
P.O. Box 83720
Boise, Idaho 83720-0027
(208) 332-6910
(800) 377-3529 (TDD)

Idaho Parents Unlimited, Inc. (IPUL)
4696 Overland Road, Suite 478
Boise, Idaho 83705
(208) 342-5884 (V/TDD)
(800) 242-IPUL

Comprehensive Advocacy (CoAd)
4477 Emerald St. Suite B-100
Boise, Idaho 83706
(208) 336-5353
(800) 632-5125
Telephone #'s are TDD accessible.

Appendix 7C

GUIDELINES FOR THE MANAGEMENT OF STUDENT RECORDS

Protect the privacy of all families whose children are in school. The Family Educational Rights and Privacy Act (FERPA) protects the privacy of families by insuring the confidentiality of information in education records that schools maintain about students. Three concepts—notification, disclosure, and informed consent—are fundamental to FERPA regulations.

Confidentiality provisions in the Individuals with Disabilities Education Act (IDEA) incorporate FERPA provisions. However, the IDEA provisions go beyond FERPA. Therefore, this appendix has been prepared to assist districts in meeting confidentiality regulations from both FERPA and the IDEA.

A. Definitions and Acronyms

1. **Disclosure:** Permitting access to or the release, transfer, or other communication of personally identifiable information contained in education records, to any party, by any means, including oral, written, or electronic.

2. **Education records:** Any recorded information including, but not limited to, handwriting, print, computer media, videotape, audiotape, film, microfilm, and microfiche that is:

   a. directly related to a student; and

   b. maintained by a district, an institution, or by a party acting for the district or institution.

3. **Adult student:** Under the IDEA, an adult student is a student who is eligible for special education, is 18 years of age or older, and to whom special education rights have transferred.

4. **FERPA :** The Family Educational Rights and Privacy Act.

5. **GEPA:** The General Education Provisions Act.

6. **Informed Consent:** In general, a parent/adult student has the right to give or decline to approve a district's request to release records to another party. A parent's/adult student's agreement must be based on an explanation of how, what information will be released, and how the information will be used.

7. **Notification:** A district's responsibility to inform the parent/adult student of the legal basis for compiling data and the circumstances under which records can be released or disclosed.

8. **Parent:** A parent of the student, including a natural or an adoptive parent, a legal guardian, or an individual acting as a parent in the absence of a parent. The term does not include state agency personnel if the student is a ward of the state.

B. Annual Notice to Parents/Adult Students about Confidentiality

Each district must annually notify parents of students currently in attendance, or adult students currently in attendance, of their rights under FERPA. This annual notification includes parents of students with and without disabilities. The notification may be provided by any means that is likely to inform parents/adult students of the privacy protections under FERPA. A model notification of rights is included in this appendix.

Commonly Asked Questions:

1. What should be included in the annual notification?

   The notice must inform parents/adult students that they have the right to:

   a. inspect and review the student's education records;

   b. seek amendment of the student's education records if they believe them to be inaccurate, misleading, or otherwise in violation of the student's privacy rights;

   c. consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that FERPA authorizes disclosure without consent; and

   d. file a complaint alleging failures by the district to comply with the confidentiality requirements of FERPA and IDEA.

   The notice must also include the procedures for exercising the right to inspect and review education records and for requesting amendment of the records. If the district has a policy of disclosing education records to school officials with a legitimate educational interest, the notice needs to state the criteria for determining who constitutes a school official and define a legitimate educational interest.

2. How does a district provide this annual notification to parents/adult students?

   A district may provide this notice by any means that is reasonably likely to inform the parents/adult students of their rights. A few common ways districts have provided this annual notification include school handbooks for parents and students or newspaper publications. The notification requirement also means that parents/adult students who have a disability or who speak a primary language other than English will need to be effectively informed of the information provided in the annual notification. Methods for notifying these individuals may include providing alternative formats of a student handbook such as audiotape, Braille, computer diskette, large print, or translation into native languages.

C. What Constitutes a Student Record?

All special education records are part of the cumulative education file even though they may be stored at another location. When districts and schools decide to collect and maintain personally identifiable information, each piece included in an education record should represent a clear and important need for obtaining and recording that information. Therefore, education records may include, but are not limited to, the following:

1. identifying data (name, address, siblings, SSN, list of personal characteristics or other information that makes it possible to identify the student);
2. academic work (courses taken, transcripts);
3. level of achievement (grades, portfolios, performance assessments, scores on standardized achievement tests, etc.);
4. attendance data;
5. aptitude and psychological test scores and protocols;
6. records of teachers, counselors, medical personnel or psychologists working directly with a student;
7. interest inventory results;
8. observations and verified reports of serious or recurrent behavior patterns;
9. videotapes or audiotapes;
10. health data including medical assessments;
11. family background information;
12. transportation records; and
13. student records maintained by agencies or individuals contracted with the district.

The term "record" does not include:

1. records of teachers, supervisors, school counselors, specialists, administrators, or ancillary personnel that are kept in the sole possession of the maker of the record and are not accessible or revealed to any other person except a temporary substitute for the maker of the record;

2. records created by law enforcement units of schools maintained separately for non-educational purposes; and

3. employment records about a student who is employed by a school or district.

D. The Data Collection Process

School personnel must have information about a student if they are to make appropriate decisions about special education and support programs. Records will follow the student from the time he or she enters school until the student graduates or completes his or her education program. Decisions regarding who collects the data or how and why the data is collected takes careful consideration by the district.

Commonly Asked Questions:

1. Who develops the student's special education record?

   Typically, office personnel of a school collect required demographic information through the enrollment process. Other school personnel contribute additional information as it becomes available. The student's special education case manager should organize all relevant data specific to special education in accordance with district guidelines and the IDEA.

2. How are special education records secured?

   All records need to be kept in locked files in the school or district that the student attends. An access log must be attached to each file.

3. How many copies of the special education record should there be?

   In addition to a master special education file maintained by the district or school, appropriate personnel may maintain permanent working files. The existence and location of all files must be documented in each file.

4. Should test protocols be a part of a student's record that can be reviewed by the parent?

   Yes. OSEP's position is that it is "highly improbable" that test protocols meet the "sole possession" exception to prohibit parental access. The basis of OSEP's position is that even though a protocol may be kept in the sole possession of the examiner, the information in it is discussed with other school personnel in programming or placement meetings. In other words, data on the protocol is part of the documentation that is used to establish special education eligibility. Also, any anecdotal information on protocols can support the interpretation of the results. Therefore, a parent has the right under FERPA and the IDEA regulations to inspect and review protocols, but not to copy the document unless the parent lives at such a distance that inspection and review are not practical. Protocols can be kept in a separate file, but their existence and location must be noted in the student's record.

Another underlying argument by examiners to prohibit parental access to protocols is the publisher's proprietary interest in the test items and answers and the ability to assure the validity of the test instrument. OSEP does not see it that way. OESP believes that a test protocol would not be an exception under FERPA and the IDEA when providing the test instrument would be the only way to meet the district's IDEA obligation to explain the test results to a parent.

OSEP has offered examiners an opinion that test instruments, test protocols, and interpretative materials that do not contain the student's name and are not kept by the examiner do not fall under FERPA's definition of education records. Thus, coding a test protocol by a letter or number known only to the test examiner and not otherwise revealing the student's identity may be a way to preserve the confidentiality of a protocol.

Another alternative is that examiners may wish to destroy, rather than maintain, protocols and interpretative materials after fully documenting the results and interpretations on the special education *Eligibility Report*.

5. Who is responsible for the accuracy of student records?

   In general, educators collecting student information are ethically responsible for maintaining accurate records. A parent/adult student can challenge the accuracy of a record through the district procedures for requesting amendment of records.

6. Can social security numbers (SSN) be used to identify education records?

   Yes. However, a district or institution cannot require students to provide social security numbers. It is important to inform parents/adult students of how the school or agency intends to use these numbers as well as the limits of their use.

E. Access to Student Records

A parent/adult student must have the opportunity to inspect and review all education records associated with the special education services the student receives. In particular, the parent/adult student must have access to records pertaining to the identification, evaluation, and education placement of the student and the services received. However, it is important for schools to establish internal management procedures for verifying the authenticity of the request.

The IDEA requires a district to provide copies of certain information to the parent and adult student. The parent and adult student must be given a copy of the Eligibility Report and any other eligibility documentation as well as any IEP developed.

Commonly Asked Questions:

1. Can students review their own records?

Yes, but only under certain circumstances. Under the IDEA and Idaho regulations, the right to review records transfers from the parent to the student once a student turns 18 years old unless the IEP team has determined that the student is unable to provide informal consent with respect to his or her educational program or the parent has obtained guardianship. Before age 18, students may not have access to their elementary or secondary school records unless are emancipated minors or a parent wishes to review the records with his or her own child.

2. What are the access rights of emancipated minors?

   Idaho law does not provide for the emancipation of minors. However, Idaho does recognize an emancipated minor who has the power and capacity of an adult as designated by a court in another state. An emancipated minor should be prepared to provide the district with the court document in order to obtain access to his or her own record. Also, in Idaho, students younger than age 18 who are married to an adult at least 18 years old are not emancipated minors. Instead, the spouse becomes the guardian of the student for legal matters. Therefore, the spouse has the access rights, but he or she can give consent for the student to review his or her own records. In such cases, school personnel are encouraged to work with the student by inviting the spouse to act as an advocate of the student when inspecting and reviewing records.

3. Can the custodial parent prevent a noncustodial parent from exercising his or her FERPA rights to access records?

   No. FERPA rights are given to both parents. The school may assume that a parent has these rights unless it has evidence to the contrary. The school does not need the permission of the custodial parent to give the noncustodial parent access to records. However, the custodial parent can request in writing that the minor child's address be deleted from records to prohibit a noncustodial parent from having access to the address simply by inspecting the school records.

F. Disclosure/Transfer of Records

Districts are required to fully inform personnel who collect or use personally identifiable information about their responsibilities for implementing confidentiality provisions. The confidentiality of information must be protected at collection, storage, disclosure, and destruction stages.

Parent/adult student consent is needed to disclose records unless the circumstances are specifically authorized by FERPA. Schools need to maintain records of disclosures, including the names of persons retrieving the records,and the purpose for each disclosure. Documentation of denials of access to records or partially fulfilled requests should also be maintained. Before releasing records, district personnel should review the compiled information for accuracy and ensure it is within the scope authorized to be disclosed.

Recommended procedures for transferring records to another school are as follows:

Step 1: When a student withdraws from a classroom/school, all records should be sent to the records manager of that school or district to ensure that all records are centrally located. All information that is not an education record should be deleted by the teacher or related service provider prior to forwarding the file to the records manager.

Step 2: If a district has formally received a request for a student's record from another Idaho district, the records manager should electronically transmit or overnight mail the IEP and *Eligibility Report* within 2 days of the notification. The rest of the file may follow by U.S. mail as soon as possible. If the district has formally received a request from an out-of-state school, forward copies or the original documents within 10 days of the request. If originals are sent, the district must maintain a copy for audit purposes.

Step 3: When the school record contains information concerning violent or disruptive behavior or disciplinary action, this information will be contained in a sealed envelope, marked "Confidential Information" and addressed to the principal or other administrator of the school.

Step 4: The records manager must document:

a. the receipt of a formal request for records; and

b. that specific records were forwarded to whom, when, and where.

***Commonly Asked Questions*:**

1. Is written parent/adult student consent required for the education records to be released to any other district?

   No, written consent is not required to send records to another school, school system or educational institution in which the student intends to enroll. The district should automatically forward education records to other schools or districts within or outside the state as soon as the district receives verification of student enrollment in a different school system. However, the IDEA requires that any disclosure of records to other agencies be for the purpose of meeting IDEA requirements.

2. Should third party reports be included in the file that is forwarded to another school?

   It depends on the circumstances. All reports that are part of a student's file in a school system should be forwarded. When a third party report has been released to a district by consent of the parent/adult student for the specific purpose of determining special education eligibility, placement, or FAPE, the report becomes a part of the file and should be forwarded.

When the district receives documents from non-education agencies stating that they cannot be released to others or even the parent/adult student, the district should return the documents to the originator. These documents do not become part of the student's file.

3. What kind of information can be given over the telephone or in person to the receiving school or district?

   Any information relevant to the student's IEP can be released over the telephone to the school requesting release of records. The district should document the telephone call and attempt verification of the student's intent to enroll.

4. Do you need consent to share information with law enforcement authorities or probation officers?

   Unless there is a court order or subpoena allowing disclosure of the student's education record, school officials should obtain consent to release information to law enforcement authorities. Sample court orders are included in this appendix. However, it should be noted that nothing in FERPA prevents a school official from disclosing to local law enforcement authorities information that is based on that official's personal knowledge or observation and is not from an education record. For instance, if a principal were to observe that a student is involved in a gang, FERPA would not prevent the principal from disclosing or reporting this information.

5. Can student records be transmitted electronically, via the Internet or fax?

   The law requires districts to prevent the unauthorized release of education records. Thus, when student records are transmitted electronically, confidentiality must be protected both by the sender and receiver of information. Procedures need to be established and staff must continually be trained about their obligation to treat the information confidentially. If fax machines are used, they are considered to be less secure. It is important for any electronic system to log the transfer of data in order to account for release of information by and to appropriate individuals. Districts can use a variety of methods to safeguard the data, including encryption, passwords, and authentication programs or stamping it confidential.

6. How long is a consent to release information valid?

   Since a consent to release information is only required for agencies other than education agencies, the consent is valid for one immediate release, unless specific duration dates are listed on the release.

7. What should the district do with records if a student is determined to be ineligible for special education services?

Those forms that document ineligibility become part of the permanent file and should be transferred with other school records.

G. Destruction of Records

Special education records must be kept for at least 5 years according to the General Education Provisions Act (GEPA). FERPA allows districts to maintain permanent records of limited identifying information, such as a student's name, address, telephone number, grades, attendance record, courses, grade level completed, and year completed. A parent/adult student must be informed when information is no longer needed to provide educational services and will be destroyed.

***Commonly Asked Questions*:**

1. When can a district destroy special education records?

   Special education records may be destroyed 5 years after the district no longer needs the information to provide special education services. GEPA regulations require districts receiving federal funds to retain records necessary for audit purposes and to show compliance with any federal regulations for 5 years after the use of sub-grant funds (Part B funds). Examples of the records to be maintained are the *IEP*'s, *Eligibility Reports, Consent, and Written Notices*. If a district intends to destroy records after the required 5 year time period, the parent and adult student must be informed that the information is no longer needed and will be destroyed. A parent/adult student may request that the special education records be destroyed, in which the district must destroy the records but after the 5 year time requirement.

2. Why should special education records be destroyed when they are no longer needed?

   Record destruction is the best protection against improper and unauthorized disclosure. Record destruction also reduces management problems such as storage, maintenance, and retrieval.

3. What is the procedure for the destruction of special education records?

   After 5 years, the district should document an attempt to inform a parent/adult student that special education records are no longer needed and that they will be destroyed. A letter to the parent/adult student needs to indicate that the records will be destroyed 45 days after the date of the notice. The parent/adult student should also be informed that he or she may need these records for other purposes in the future, such as determining Supplemental Security Income (SSI) eligibility. The district needs to document the date of destruction or the release of the records to a parent/adult student, when appropriate.

4. Who can destroy a special education record?

   Districts need to designate a person to be responsible for record destruction.

5. How should records be destroyed?

   Records need to be shredded and/or burned so they are no longer personally identifiable.

References:

Family Educational Rights and Privacy Act; Final Rule, 34 C.F.R. Part 99 (1995) .

Idaho State Department of Education. (1989) . *Guidelines for the management of student records*. Boise, ID: Author.

Transfer of Student Records—Duties, Idaho Code § 33-209 (1994) .

National Center For Education Statistics, U. S. Department of Education. (1997) . *Protecting the privacy of student records: Guidelines for education agencies*. Washington, DC: Author.

Family Policy Compliance Office, U. S. Department of Education and U. S. Department of Justice. (1997) . *Sharing information: A guide to FERPA and participation in juvenile justice programs*. Washington, DC: Author.

The information in this appendix was initially developed in 1992 by the Joint Task Force on Special Education Issues and the State Department of Education. It was revised and updated in 1999 by the Idaho Special Education Manual Task Force.

Model Notification of Rights Under FERPA

The Family Educational Rights and Privacy Act (FERPA) affords parents and students over 18 years of age ("eligible students") the following rights with respect to the student's education records:

1. The right to inspect and review the student's education records within 45 days of the day the district receives a request for access.

   The parent or eligible student should submit to the school principal a written request that identifies the record(s) he or she wishes to inspect. The principal will make arrangements for access and notify the parent or eligible student of the time and place where the records may be inspected.

2. The right to request an amendment of the student's education record that is believed to be inaccurate or misleading. The parent or eligible student should make a written request for an amendment of records to the school principal by clearly identifying the part of the record that needs to be changed and specifying why it is inaccurate or misleading. If the district decides not to amend the record as requested, the parent or eligible student will be notified of the decision and advised of the right to a hearing regarding the request.

3. The right to consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that FERPA authorizes disclosure without consent.

   One exception that permits disclosure without consent is to school officials with legitimate educational interests. A school official is a person employed by the district as an administrator, supervisor, teacher, or support staff member (including health staff and law enforcement personnel); a person serving on the board of trustees; a person or company that the district has contracted to perform a special task; or a parent or student serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official in performing his or her tasks. A school official has a legitimate educational interest if the official needs to review an education record to fulfill his or her professional responsibility.

   Upon request, the district will disclose education records without consent to officials of another school district in which a student seeks or intends to enroll.

4. The right to file a complaint with the U.S. Department of Education concerning alleged failures by the district to comply with the requirements of FERPA. The office that administers FERPA is:

   Family Policy Compliance Office
   U.S. Department of Education
   600 Independence Avenue SW
   Washington, DC 20202-4605

[NOTE: In addition, the district may want to include its required directory information public notice with its annual notification of rights]

Sample Letter 1 for Destruction of Records

The district may send one of the following sample letters when the student graduates, completes the semester in which he or she attains the age of 21, is no longer eligible for special education, or when records are about to be destroyed.

September 1999

Mr. & Mrs. John Doe
12345 Main St.
Last Chance, ID 67890

Dear Mr. & Mrs. Doe:

This letter is to notify you that the special education records that have been kept by Snake River School District #1000 on _____ (name of student) _____________ are no longer needed to provide educational services. Therefore, in compliance with local school board policy, these records will be destroyed in 5 years. Destruction of these records is the best protection against improper and unauthorized disclosure.

Please be aware that these records may be needed for social security benefits or for other purposes in the future. If you wish to review or acquire the file now for your own reference, please make your request in writing to the district administration office.

If you have any questions, please feel free to contact me at ________________________.

Sincerely,

Director of Special Education

Sample Letter 2 for Destruction of Records

September 1999

Mr. & Mrs. John Doe
123 South Main
Last Time, ID 45678

Dear Mr. & Mrs. Doe:

The purpose of this letter is to notify you that the special education records that have been kept by Snake River School District #1000 on ______ (name of student) ___________ are no longer needed to provide educational services. Therefore, in compliance with local school board policy to destroy education records after 5 years, these records will be shredded in 45 days. Destruction of these records is the best protection against improper and unauthorized disclosure.

Please be aware that these records may be needed in the future for social security benefits or other purposes. If you desire to review the file or keep the file for your own records, please make your request to the administration office within 45 days. After that time, if we have not heard from you, these records will be destroyed.

If you have any questions, please contact me at ______________________.

Sincerely,

Director of Special Education

Court Order Authorizing School-Probation Information Exchange Model

CONFIDENTIAL INFORMATION

STATE OF,____________________________________, SUPERIOR COURT

COUNTY OF____________________________________, JUVENILE COURT

ORDER OF THE JUVENILE COURT AUTHORIZING RELEASE AND EXCHANGE OF INFORMATION BETWEEN SCHOOL DISTRICTS AND PROBATION OFFICIALS

Pursuant to the authority vested in the Court by

____(Identified Code and Sections)

____

IT IS HEREBY ORDERED that the Probation Department of ____________ County and all districts in _________________ County shall release information to each other regarding all minors and students under their supervision. Information that may be helpful in providing services, supervision, progress reports, advice to the juvenile court, and educational placements, as well as in increasing school safety and other legitimate official concerns of both agencies shall be shared by both agencies. Such information shall include, but is not limited to, academic, attendance, and disciplinary records; arrest and dispositional data; names of minors on probation and their assigned probation officers; and names of minors attending individual schools and their assigned teacher, counselor, or other appropriate adult contact at the school site.

____

Date, Presiding Judge, Juvenile Court

Sample Court Order

Notice of Juvenile Court Disposition
(on agency letterhead)

Date
Superintendent
School district
RE: (name of student)
Birth date:
Last school:

In accordance with (citation of Code and Sections) and with the Order of the Juvenile Court, you are hereby notified that the above-named minor was found by the juvenile court to have:

____
____

On (date), the minor was placed ______________________________________
____

with the specific terms of probation to ________________________________
____

Sincerely yours,

____
Deputy Probation Officer

Phone:__________________________

Appendix 7D
SURROGATE PARENT PROCEDURES AND FORMS

Section 1. Determining the Need for a Surrogate

If the district cannot identify or locate a person who meets the definition of a parent, it must appoint a surrogate parent to represent the interests of the student.

A. Definition of Parent

For special education purposes, the term "parent" means a parent, guardian, or a person acting as a parent of a child. In determining who has parental rights, the district will consider individuals in the following order of priority:

1. natural or adoptive parent with legal custody;
2. legal guardian;
3. stepparent or relative with whom a student lives, e.g., grandparent, aunt, or uncle;
4. a person not related to the student, but with whom the student lives and who has explicit approval (such as power of attorney) from the natural or adoptive parent to provide physical care; and
5. long-term foster parent with whom a student has resided for 6 months or more.

The term "parent" does not include:

1. a natural or adoptive parent whose parental rights have been terminated by a court of competent jurisdiction;
2. the state, if the student has been placed in the state's custody by a court of competent jurisdiction;
3. the director or other employee of an agency, an institution, or a community-based residential facility who is involved in providing care or education to the student;
4. a person not related to the student, with whom the student lives, who does not have explicit approval from the natural or adoptive parent to provide physical care;
5. a foster parent with whom the student has resided for less than 6 months; or

6. an employee of a state agency or agency volunteer, e.g., caseworker, social worker, court-appointed special advocate who has been appointed by the state to provide for the welfare of the student.

B. Locating the Parent

The district should keep records of its attempts to locate a parent and should maintain these records in the student's special education file. The district will use a combination of methods including:

1. A certified letter that includes:
    a. a request for participation in the special education process;
    b. the *Special Education Rights Statement*; and
    c. a method for allowing the parent to respond to the request.
2. A contact to the appropriate agency (usually the Department of Health and Welfare) if a student is in the state's custody, to determine the student's status and potential need for a surrogate parent.
3. Phone calls.
4. A visit to the parent's last known address.

Any employee of the district who is aware that a student may need a surrogate must notify an appropriate district administrator. Any member of the community who is aware that a student may need a surrogate parent should notify the district. A *Determination of Need for a Surrogate Parent* form needs to be completed, submitted to the administrator, and placed in the student's special education file.

Section 2. Qualifications, Selection, and Training of Surrogate Parents

A. Qualifications

A surrogate parent must meet the following qualifications:

1. be an adult of good character;
2. be a resident of the State of Idaho;
3. have no interests that conflict with the interests of the student being represented;

4. have sufficient knowledge and skill to ensure adequate representation of the student;
5. not be an employee of any public agency involved in the education or care of the student;
6. not be an employee of a private agency involved in the education of the student;
7. have sufficient time, knowledge, and skill to carry out the duties of a surrogate parent; and
8. have an understanding of the student's native language, culture, and ethnic background.

B. Selection of Surrogate Parents

The district is responsible for selecting and training qualified surrogate parents. Best practice recommendations are to select surrogate parents by:

1. recruiting volunteers via newspaper ads, posters, announcements at parent meetings, asking potential candidates, and developing a list of potential volunteers;
2. interviewing potential volunteers for surrogate parents;
3. arranging and providing training for surrogate parents; and
4. maintaining a list of people who are qualified, trained, and willing to serve as surrogate parents.

The district, in some cases, may appoint a foster parent as surrogate parent, even if the child has not resided with him or her for 6 months. Appropriate training must be provided. Caution is advised in appointing a foster parent because he or she may inadvertently represent state interests.

A *Surrogate Parent Information* sheet is included in this appendix on p. ___, to assist the district in keeping information about trained, qualified surrogates available and about appointments that have been made.

C. Training

The district must ensure that a surrogate parent has appropriate training or comparable experience to effectively represent the student. Training methods may include:

1. in-service training for a group of prospective surrogate parents (a minimum of 5 hours is recommended);

2. one-to-one training with a surrogate parent covering needed information;
3. videotapes or other media to provide information about special education;
4. recent college courses in special education;
5. previous participation in the special education process; or
6. participation in training sessions designed to provide other parents with information about their special education rights;

Training should be provided in the following topics:

1. federal, state, and local laws and processes related to special education; and
2. rights and responsibilities of surrogate parents.

D. Administrative Issues

The district should develop guidelines in these areas:

1. reimbursing the surrogate parent for travel and other expenses incurred while serving as a surrogate parent, consistent with district policy;
2. assigning no more than 5 students to any 1 surrogate parent;
3. reviewing the assignment of each surrogate parent, at least annually, to ensure that he or she has:
    a. become acquainted with the student's educational needs;
    b. reviewed the student's education records;
    c. provided input into decisions to evaluate or reevaluate a student, as appropriate;
    d. participated in the development, review, and revision of the student's IEP; and
    e. represented the student effectively in all matters relating to FAPE.

E. Surrogate Parent Rights and Responsibilities

A surrogate parent has the same rights as a natural parent throughout the educational decision-making process. The surrogate parent must:

1. Become acquainted with the student, including the student's disability, education records, educational needs, culture, and language background. This is done through visits to the student's school, and where possible, place of residence.

2. Represent the student at all IEP team meetings to develop, review, and revise the student's IEP. The surrogate parent must represent the student at all other meetings related to the identification, evaluation, and educational placement of the student, and the provision of FAPE in the least restrictive educational environment.

3. Ensure the confidentiality of information and records concerning the student.

4. Make sufficient time available to effectively carry out the duties of a surrogate parent.

5. Have sufficient knowledge and skills to execute these responsibilities and to seek additional consultation and training as needed.

6. Maintain a file containing the student's records and a record of the surrogate parent's activity. The surrogate parent will forward the file to the district upon the termination of his or her appointment.

7. Notify the district whenever he or she has reason to believe that a conflict of interest exists with respect to his or her appointment.

A sample letter of appointment for surrogate parents that outlines the role and responsibilities of a surrogate parent is included at the end of this appendix on page A-154.

F. Terminating Appointments

The appointment of a surrogate parent must be terminated when any of the following conditions occur:

1. The natural or adoptive parent with legal custody is identified and located.

2. A guardian is appointed by a court of competent jurisdiction.

3. The student no longer requires special education and/or related services.

4. The surrogate parent informs the district that he or she is no longer willing to serve as a surrogate parent.

5. The district learns that a surrogate parent does not meet the criteria to serve as a surrogate because he or she has become an employee of the district or other agency directly involved with the student, or a conflict of interest is identified.

6. The surrogate parent has not effectively represented the student, i.e., has not attended meetings or has not become acquainted with the student's needs.

Disagreement with district recommendations or procedures is not cause for termination of a surrogate parent appointment.

Date of Request:	Determination of Need for Surrogate Parent

This form may be used by the school district when determining the need for a surrogate parent for a student.

Person Making the Request: ______________________________ Position: ______________________

Address: ____

Student's Name: ____ DOB: ______________________

Student's Current Home Address: ____

Home Phone: ________________________ School Attending: ________________________________

Check one: ______ The student is receiving special education services.

______ The student is suspected of needing special education services.

Is there a Caretaker or Custodian of the student? Yes _______ No _______

If yes, please name: ____

Address: ____

Telephone Contact Number: ____

What relationship to the student does the caretaker or custodian have?

Relative _____ Foster Parent _______ Group Home _______
Other (specify) ____

Is the student in the state's custody? Yes ________ No ___________

Do the student's natural or adoptive parents have legal custody? Yes _______ No _________

Are the student's parents unknown/unavailable? Yes _______ No __________

Documented efforts to locate a parent or guardian include:

Phone ______ Letters ______ Certified Letters _____
Visit to parent's last address _____ Other (specify) _________________________

Does the student have a court-appointed or other legal guardian? Yes _______ No _________

If yes, list the name: ____

Address: ____

Home Phone: __________________ Work Phone: ____________________________

Does the caretaker, custodian, or court appointed guardian meet the definition of a parent for special education purposes? Yes _____ No ______

Please explain

Please forward a copy of this form with pertinent documentation to the district's special education director.

District Use Only

Based on the information available:

____ A surrogate parent must be appointed to represent the student.
____ A surrogate parent does not need to be appointed.

Signature: ______________________________________ Date: ____________

Printed Name: ______________________________ Title: ______________________

(The appointment of a surrogate parent must be no more than 30 calendar days from the date the potential need was identified.)

Comments:

Surrogate Parent Information Sheet

This information may best be gained by interviewing the potential surrogate parent. The information on this form should be filed in the district special education office, not in the student's special education file.

Name: ______________________ Date: __________
Home Address: ______________________
Home Phone: __________ Work Phone: __________
Date of Birth: __________ Resident of Idaho? Yes ___ No ___

1. Are you currently employed by an agency that would constitute a conflict of interest in your service as a surrogate parent? (Examples are school district employee, Department of Health and Welfare caseworker, etc.) Yes ______ No ______

2. Please describe your educational background: ______________________

3. Are you conversant in other languages or sign language? ______________________

4. Please tell us about experiences you have had with children or youth, parenting, special interests, organizations, affiliations: ______________________

5. Do you have any previous experience working with, or caring for, children with disabilities? Please describe: ______________________

6. Would you be able to attend meetings at school regarding any students assigned to you? Yes ______ No ______ What time would be best for you? ______________

7. Are you willing to serve as a surrogate parent for one year or more? Yes _____ No _____

8. Do you have a preference for the type of student assigned to you? (Age, disability, or school location) ______________________

9. On the back of this page, please list three references we could contact.

Prospective Surrogate Parent: ______________________ Date: __________

District Use Only

Documentation of training: ______________________

Student	**Date Surrogate Appointment Made**	**Date Surrogate Appointment Terminated**

Sample Letter of Appointment for Surrogate Parents

Dear __(insert surrogate parent's name)__:

The purpose of this letter is to appoint you as a surrogate parent for __(insert student's name)__. We thank you for volunteering your time and talents to benefit a student in our district. When the natural or adoptive parent is not able to serve as a parent, and the student is eligible to receive special education services, it is necessary for the school district to appoint a surrogate parent to act on behalf of the student in matters related to special education. We greatly appreciate your service.

We would like to restate some of the details we talked about previously regarding the responsibilities for surrogate parents. As a surrogate parent for __(insert student's name)__, we invite your involvement in the following ways:

- become acquainted with the student, including the student's disability, education records, educational needs, and cultural and language background;
- represent the student in all meetings to develop, review, and revise the student's individualized education program (IEP);
- represent the student at other meetings related to the identification, evaluation, and educational placement of the student, and the provision of a free appropriate public education (FAPE) in the least restrictive environment (LRE);
- ensure the confidentiality of information and records concerning the student;
- acquire sufficient knowledge and skills to execute these responsibilities and to seek additional consultation and training as needed;
- maintain a file containing the student's records and your activity as a surrogate parent; and
- notify the district whenever you have reason to believe that a conflict of interest exists with respect to this appointment.

The district is responsible to provide training to you as needed regarding special education services. The district is pleased to reimburse your travel and other expenses according to district policy. Forms will be provided to you.

As a surrogate parent, you will have the same rights as the natural or adoptive parent. These briefly include being an informed participant in the special education decision-making process, reviewing the student's records, receiving written notice before changes are made in the student's IEP program, and using procedural safeguards. A *Special Education Rights Statement* is attached to this letter that more fully explains your rights.

We look forward to working with you as you undertake the responsibility for __(insert student's name)__. If you have questions at any time, please feel free to call me. Again, on behalf of __(insert student's name)__, and our school district, I appreciate your assistance.

Sincerely,

Director of Special Education

Appendix 7E
SPECIAL EDUCATION MEDIATION IN IDAHO

MANAGING PARENT AND SCHOOL CONFLICT THROUGH EFFECTIVE COMMUNICATION

If conflict occurs between a parent and school personnel regarding the educational program of a special education student, mediation may provide a non-adversarial alternative to resolve the dispute.

Mediation is a structured, yet informal, voluntary process in which an impartial third party, a mediator, helps parents and school personnel who are experiencing conflict to reach a suitable agreement. Mediation builds positive working relationships, encourages mutual understanding, and helps parents and school personnel focus on their common interest—the student.

The Special Education Mediation Process Is:

Voluntary for parents and school personnel and is not required by law;

Confidential, thus encouraging all participants to speak freely;

A **No-Cost Service** to parents and schools provided by the Idaho State Department of Education (SDE); and

An **Alternative** that does not affect the status of a due process hearing or formal complaint.

Section 1. Mediation in Idaho

The mediation process:

1. May resolve disputes regarding the identification, evaluation, educational placement or related services for students with disabilities.
2. Clarifies areas of agreement and disagreement.
3. Fosters better relationships between parents and schools.

Mediation builds positive working relationships, encourages mutual understanding, and helps parents and schools focus on their common interest—the student.

Section 2. Comparing Mediation to Other Systems

Mediation	Impartial Due Process Hearing	Complaint Investigation
Less adversarial	Adversarial	Adversarial
Informal	Formal	Formal
Confidential	Confidential	Confidential
No cost to parties	Costly for schools or parents	Could be costly for districts
Supports mutual problem-solving	Solution ordered by hearing officer	Investigator makes final determination
Mediation session less than a day. Efforts made to complete entire process within 14 days.	Hearing may last several days. The decision must be issued within 45 days of the request unless the time line is extended.	Process may take several weeks. Investigations must be completed and complaint resolved within 60 days.
Supports open, direct communication	Communication through attorneys and the hearing officer	Communication with investigator
Agreements made jointly	Law-based solution	Determined by State Department of Education
If no agreement is reached, a formal written complaint or due process hearing may be pursed.	Decision is binding; however, it can be appealed to a state or federal court.	No formal appeal of the decision.

Section 3. Requesting Mediation

An oral or a written request for mediation may be made to the SDE by the parent of a child with a disability, a legal guardian, a surrogate parent, or the district. In addition, the SDE will encourage parents and districts to participate in mediation when it seems appropriate. Following a request for mediation, the SDE will make every effort to complete the process within 14 days.

A request for mediation:

1. Is appropriate when parents and/or schools are unwilling or unable to modify their position without outside assistance.

2. May occur when parents and schools, after making a good-faith effort, face an impasse in attempting to resolve the conflict.

3. Can be scheduled prior to, or concurrent with, a request for a due process hearing.

Section 4. Proposed Mediation by the SDE

The SDE will automatically offer mediation to resolve a dispute between parents and the district:

1. When there is a formal request for a due process hearing.
2. At any other time the SDE deems the use of mediation appropriate.

Section 5. Appointment of a Mediator

The SDE maintains a list of qualified mediators. When both parties in a dispute agree to mediate, every attempt will be made by the SDE to appoint a mediator within 3 business days of the request. A mutually agreed upon time, date, and place of the mediation will be coordinated by the mediator.

If a due process hearing has been requested, the SDE will use a rotating list to select the mediator or both parties will be involved in and agree to the selection of the mediator.

If a due process hearing has been requested, the mediator may not be an employee of any district or state agency providing publicly funded services under the IDEA and co-mediators may not be used.

Section 6. The Mediator

A mediator is a neutral third party trained in communication, problem-solving skills, and specific mediation techniques who acts as a facilitator to assist parents and schools in resolving conflicts. The mediator does the following:

1. Educates the parties about the mediation process.

2. Encourages open and honest communication.

3. Establishes the ground rules for all parties to follow.

4. Guides the process.

5. Ensures that each party is heard.

6. Rephrases information and summarizes issues.

7. Advises parties to seek legal counsel to clarify issues pertaining to law and regulation.

8. Facilitates the writing of the agreement.

Section 7. Roles of Parents and Schools

It is in the best interest of all parties, including the student, to explore mediation as a means to an informal resolution of the conflict. Parents and school personnel play a very important role in mediation. As active participants, each party can help design a mutually agreeable solution.

Section 8. Prior to the Mediation

Prior to the mediation the SDE will provide:

1. Formal notification to the disputing parties of the mediator appointed.

2. A copy of this SDE booklet, *Special Education Mediation in Idaho,* and the *Special Education Rights Statement* to each party.

3. A copy of the "Confidentiality Pledge" to the parent, district, and mediator. The parties should review the pledge, come to the mediation with any questions regarding confidentiality, and be prepared to sign the pledge.

Prior to mediation the mediator will:

1. Contact the parties to explain the mediation process, identify issues, and help the parties establish a date, time, and place to hold the mediation.

2. Assist in determining who will attend the mediation session and inform the parties that participants need to be knowledgeable about the student and of available resources or services the student may need.

3. Advise the SDE of the names of all parties who will participate in the mediation session.

Prior to mediation, the parent and district:

1. Determine who will attend the mediation session and advise the mediator of their choices.

2. Advise the mediator that the individual(s) with authority to commit resources and make final resolution decisions will participate in the mediation session.

Section 9. Preparing for the Mediation Session

The following guidelines can help participants prepare for the mediation session:

1. Keep your schedule free and be willing to give at least a day to the mediation process.
2. Put aside personality conflicts and center on the educational interests of the student.
3. Be familiar with all documents related to the dispute, including the individualized education program (IEP).
4. Approach mediation in good faith.
5. Organize your information and materials.
6. Ask yourself these questions:
    - What do I/we want to accomplish?
    - What do I/we want the other party to do?
    - Are there alternative ways to resolve the conflict?
7. Be honest.
8. Be willing to listen.
9. Be open to alternatives.

Section 10. The Mediation Session

Every mediator has his or her own personal style of conducting a mediation. Participants should feel free to ask questions and seek clarification on any issue during the session. The mediation may include the following stages:

1. **Introduction:** The mediator will explain the process, set the ground rules for all parties, respond to questions, and encourage the parties from the onset to deal with issues—not personalities.
2. **Identification of Issues:** Each party will have an opportunity, without interruption, to identify issues as he or she sees them and share information. The mediator may seek additional information or summarize the issues.
3. **Expression of Interests:** At this stage, the mediator helps the parties identify their interests (those factors underlying their issues). Goals, needs, beliefs, desires, hopes, and fears are expressed, explored, and clarified.

4. **Caucus:** On occasion, issues and underlying interests may not be clear. Opportunity is provided for each party to "caucus" with the mediator for the purpose of sharing information or seeking clarification about the issues. The mediator will not disclose information from caucus sessions without consent.

5. **Recess:** A break may be requested by any participant during the session. This time provides an excellent opportunity for all parties to gather thoughts and absorb what has transpired.

6. **Creating Alternatives:** After the basic issues and interests have been identified, discussed, and clearly understood by all parties, the mediator will assist the parties in identifying or developing options to resolve the conflict. At any time during an open session or in a caucus, either party may propose solutions.

7. **Developing and Writing a Plan:** The ultimate goal of mediation is to obtain a written resolution to the conflict. The parties establish the terms of the agreement. The mediator writes the final agreement, which is signed by the parent, school representatives, and mediator. Each party retains a copy of the agreement. If an agreement involves proposed changes to a student's IEP, an IEP team meeting should be convened as soon as possible.

8. **Implementation:** In order for the final agreement to work effectively, its provisions must be implemented. The signed agreement demonstrates a commitment by both parties to abide by the conditions of the agreement. Ultimately, it is the responsibility of the parties to fulfill their obligations. If the agreement is not implemented, both parties may return to mediation.

Section 11. Mediation Policies

1. Disputes involving weapons, drugs or physical/sexual abuse are not acceptable cases for mediation.

2. No video or audio recording of the mediation proceedings will be made.

3. Each party must have the authority to commit resources and make final resolution decisions.

4. Because mediation is a non-adversarial process that offers the parties the opportunity to communicate directly with each other, legal representation during a mediation session is strongly discouraged.

5. Except for the signed agreement, confidentiality pledge, and mediator evaluation forms, all notes or records taken during the proceedings will be destroyed at the conclusion of the mediation session.

6. The mediator will provide signed copies of the agreement to each party and the SDE.

7. The mediator will be excluded from subsequent actions—complaint investigations, due process hearings, or legal proceedings.

8. A due process hearing requested prior to mediation may be canceled by the requesting party.

9. If for any reason the mediation fails, the mediator will provide each party with a statement certifying that the mediation was unsuccessful.

10. Either party has the option to make another request for mediation.

For additional information, contact:

Dispute Resolution Specialist
State Department of Education
Bureau of Special Education
P.O. Box 83720
Boise, Idaho 83720-0027
Telephone: (208) 332-6912
FAX: (208) 334-4664
Hearing Impaired Callers: (800) 377-3529

Appendix 7F

IDAHO STATE DEPARTMENT OF EDUCATION
PROCEDURES FOR RESOLVING COMPLAINTS
UNDER THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT

Section 1. Filing Complaints

A. Any individual or organization from Idaho or another state who believes a school district or other education agency has violated a requirement of Part B of the Individuals with Disabilities Education Act (IDEA) may file a formal complaint with the State Department of Education (SDE). The complaint must:

1. Be in writing. (The SDE will provide reasonable accommodations to individuals who need assistance in filing written complaints.)

2. Be signed and dated.

3. Include one or more allegations. Allegations are statements that an education agency has violated a requirement of Part B of the IDEA. The alleged violations may not be older than one year from the date the complaint is received by the SDE. For unusual circumstances involving allegations older than one year, an extended period of time may be reasonable if:

   a. The alleged violation is considered to be ongoing; or

   b. There is a request for compensatory services for a violation that occurred not more than 3 years prior to the date of the complaint.

4. Include the basis of each allegation. A basis includes the facts and/or a description of the events to support the allegation, including the name(s) of the student(s) involved, as appropriate.

B. Complainants should also include their mailing address and work and home telephone numbers as well as the name, address, and telephone number of the student(s) involved.

C. Complaints must be mailed to:
Dispute Resolution Specialist
State Department of Education
Bureau of Special Education
P.O. Box 83720
Boise, ID 83720-0027

Section 2. Evaluating Complaints

At times, the SDE may not be able to proceed with resolution of all of a complainant's concerns. Complaints will be evaluated to determine whether the SDE can proceed with resolution.

A. The SDE will notify the complainant, within 30 days of receipt of a complaint, if it cannot proceed with complaint resolution and the reasons. The complainant may subsequently file a new complaint. If this occurs, the 60-day time line will begin upon receipt of the new complaint. Complaint resolution cannot proceed when:

1. The complaint is not in writing.

2. The complaint is not signed.

3. The complaint does not include allegations of Part B violations. (If appropriate, the SDE will notify the complainant of the appropriate agency, entity, or process to address his or her concerns.)

4. The complaint does not include the basis for any of the allegations.

5. All of the allegations in the complaint have been resolved in a previous due process hearing. However, the SDE will resolve a complaint alleging that the education agency failed to implement a due process hearing decision.

B. The SDE will notify the complainant within 30 days of receipt of a complaint if it cannot proceed with resolution of certain statements and the reasons. The complainant may subsequently revise the complaint. If the revised complaint contains additional allegations on which the SDE can proceed, the SDE will modify the scope of complaint resolution and may extend the 60-day time line. Resolution of every allegation cannot proceed when:

1. Some of the statements in the complaint are not allegations that an education agency has violated a requirement of Part B of the IDEA. In this situation, the SDE will proceed with resolution of the statements that are allegations. Where appropriate, the SDE will assist the complainant in clarifying other statements and/or will inform the complainant of the appropriate agency, entity or process to address concerns that do not allege IDEA violations.

2. The basis is not provided for some of the allegations. In this situation, the SDE will proceed with resolution of the allegations for which a basis has been included. If appropriate, the SDE will assist the complainant in identifying the basis for his or her other allegations.

3. Some or all of the allegations in the complaint are the subject of a current due process hearing. In this situation, the SDE will proceed with resolution of allegations that are not part of the due process hearing. The SDE will set aside allegations that are the subject of a due process hearing and will suspend the time line for those allegations. When the hearing is resolved, the SDE will proceed with resolution of any allegation on which the hearing officer has not ruled. However, the SDE will proceed to resolve allegations that an education agency failed to implement a due process hearing decision.

C. If the complaint is withdrawn by the complainant prior to expiration of the time line for resolution, the SDE will close the complaint.

Section 3. Complaint Resolution Processes

The SDE will make every effort to resolve complaints in the least adversarial manner possible. Resolution of a formal complaint may be achieved through one or more of the following four processes:

1. **Early Complaint Resolution (ECR):** The SDE may propose the use of ECR to resolve the complaint. This mutually agreed to approach provides the complainant and the district an opportunity to immediately resolve the issues prompting the complaint, even though the parties may not agree on particular findings of fact and conclusions. The SDE Dispute Resolution Specialist or a contracted investigator will facilitate a resolution through the development of a written agreement to be signed by both parties. If this process is not successful, the SDE will conduct a full investigation.

2. **Corrective Action Plan (CAP):** The district may propose a CAP to address the allegations in the complaint. The SDE may accept, reject, or negotiate the proposed CAP or require other corrective actions or time lines to ensure that the district will achieve compliance for each allegation stated in the complaint. If this process is not successful, the SDE will conduct a full investigation.

3. **Investigation:** If necessary, the SDE will investigate the complaint by conducting interviews and reviewing files, correspondence, and other information. An on-site investigation may occur if necessary.

4. **Verification of Resolution:** At any time during an investigation, the education agency may submit information to the SDE to document that one or more of the allegations in the complaint have been resolved. The SDE may also receive similar information from other sources.

Section 4. Compliance Activities

The SDE will negotiate or require corrective actions, including time lines, as necessary, for the education agency to achieve compliance.

A. **Remedies:** The SDE will identify the specific corrective action steps necessary for the district to achieve compliance. If it is determined that the district has failed to provide appropriate services, the SDE will address:

   1. How to remedy the denial of those services including, as appropriate, the award of compensatory education, monetary reimbursement or other corrective actions appropriate to the needs of the student that is the subject of the complaint.

   2. Appropriate future provision of services for all students with disabilities in the education agency.

B. **Documentation:** The SDE will verify implementation of corrective actions and compliance by obtaining documentation from the education agency, confirming compliance with the complainant, or conducting an on-site follow up.

C. **Technical Assistance:** If necessary, the SDE will provide technical assistance to the education agency during or following complaint resolution. The SDE will maintain a record of technical assistance provided to education agencies.

D. **Sanctions:** If the education agency fails to achieve compliance, the SDE may initiate procedures to withhold federal funds until the education agency achieves compliance.

Section 5. Complaint Resolution Steps

Within 60 days of receiving the complaint the SDE will:

A. Notify the education agency against which the complaint has been filed. The notice will include the allegations, the basis for the allegations, and a copy of this complaint procedure.

B. Suggest mediation to both parties as a method for resolving the complainant's concerns.

C. Provide the complainant with a copy of this complaint procedure. The complainant will also be notified of his or her right to submit additional information, either orally or in writing. Complainants will be asked to submit additional written information within 15 days of receiving notice of the right to do so. The complainant may submit additional oral information through an interview with the complaint investigator.

D. Gather sufficient additional information to make a determination for each allegation through informal fact finding; telephone or personal interviews; and a review of files, documents, correspondence, and other information. If both parties agree that one or more violations have occurred, additional fact finding will not be conducted in those areas.

E. Carry out an independent on-site investigation if it is determined necessary.

F. Review all relevant information and make an independent determination for each allegation filed by the complainant as to whether the education agency has violated a requirement of Part B of the IDEA.

G. Issue a written decision to the complainant and education agency that contains:

1. An introduction with:
    a. The date the complaint was received by the SDE.
    b. The name of the education agency involved.
    c. The complainant's allegations.
    d. The complaint investigator's name.
    e. A list of the information gathered and reviewed, and the method of collection.
    f. A description of the complainant's opportunities to submit additional information and whether additional information was submitted.
    g. If relevant, a description of any extension of the 60-day time line and the exceptional circumstances that warranted the extension.
2. The SDE's findings of fact.
3. The SDE's determination regarding each allegation.
4. If the SDE determines the education agency violated a Part B requirement, required compliance activities will be stated in the report. A time line and method of documenting compliance will be included.
5. A reference number. Personally identifiable information about the student will not be included in the final report. The use of personally identifiable information about personnel employed by the education agency will be avoided.

H. Notify the complainant and the education agency if the time line is extended. The 60-day time line, from date of receipt of the complaint to issuance of the report, may be extended if exceptional circumstances exist and are documented by the SDE. If the time line is extended, the complainant and education agency will be notified in advance of the extension. The notification will include the length of the extension and a description of the exceptional circumstances that warrant the extension.

Section 6. Record of Complaints

A. Each complaint file will be maintained for a period of at least 5 years and will include an original or copy of:

1. The complaint;
2. Investigative notes, documents, correspondence, phone logs, etc.;
3. The final report, or documentation that the complaint was withdrawn; and
4. Verification of compliance if additional activities are required in the report.

DUE PROCESS HEARING REQUEST FORM

FOR USE BY A PARENT/ADULT STUDENT

Please submit any request for a due process hearing to your district superintendent or the Dispute Resolution Specialist, Bureau of Special Education, State Department of Education, P.O. Box 83720, Boise, ID 83720-0027. (You may use this form or submit a letter that includes the information below.)

A. General Information (type or print)

Date of Written Request: ______________ Date Received (completed by SDE): __________

Name of Individual Requesting Hearing: ________________________________

Address: ____________________ City: _______ Zip:_____ Day Phone: ___________

Parent/Guardian of Student: __________________ Address: ____________________

City: ___________ Zip: ________ Telephone: (Hm) __________ (Wk) __________

Name of District/Agency Hearing Complaint Is Against: ______________________

Student Information:	**District Information:**
Student Name: ____________________	District Contact: ____________________
Address: ____________________	Address: ____________________
City: ____________ Zip: ________	City: ____________ Zip: ________
Telephone: ____________________	Telephone: ____________________

School Student Attends: ______________________________________

(Complete if the information is available):
Student's Attorney: __________________ District Attorney: __________________

B. Issue(s): Describe your specific problem that relates to any matter of identification, evaluation, placement, or provision of a free appropriate public education. Summarize the facts and information as a basis for each allegation (Attach additional pages if needed.)

____

____

____

D. Resolution: Please provide your suggestions for solving the problem. (Attach additional pages if needed.)

Signature of Individual Requesting Hearing　Title or Relationship to Student　Date

Appendix 7H

IDAHO CODE 33-205

Amended 7/1/98

Title 33
Education
Chapter 2
Attendance at Schools

33-205. DENIAL OF SCHOOL ATTENDANCE. The board of trustees may deny enrollment, or may deny attendance at any of its schools by expulsion, to any pupil who is an habitual truant, or who is incorrigible, or whose conduct, in the judgment of the board, is such as to be continuously disruptive of school discipline, or of the instructional effectiveness of the school, or whose presence in a public school is detrimental to the health and safety of other pupils, or who has been expelled from another school district in this state or any other state. Any pupil having been denied enrollment or expelled may be enrolled or readmitted to the school by the board of trustees upon such reasonable conditions as may be prescribed by the board; but such enrollment or readmission shall not prevent the board from again expelling such pupil for cause.

Provided however, the board shall expel from school for a period of not less than one (1) year, twelve (12) calendar months, or may deny enrollment to, a student who has been found to have carried a weapon or firearm on school property in this state or any other state, except that the board may modify the expulsion or denial of enrollment order on a case-by-case basis. Discipline of students with disabilities shall be in accordance with the requirements of federal law part B of the individuals with disabilities education act and section 504 of the rehabilitation act. An authorized representative of the board shall report such student and incident to the appropriate law enforcement agency.

No pupil shall be expelled nor denied enrollment without the board of trustees having first given written notice to the parent or guardian of the pupil, which notice shall state the grounds for the proposed expulsion or denial of enrollment and the time and place where such parent or guardian may appear to contest the action of the board to deny school attendance, and which notice shall also state the rights of the pupil to be represented by counsel, to produce witnesses and submit evidence on its own behalf, and to cross-examine any adult witnesses who may appear against him. Within reasonable period of time following such notification, the board of trustees shall grant the pupil and his parents or guardian a full and fair hearing on the proposed expulsion or denial of enrollment. However, the board shall allow a reasonable period of time between such notification and the holding of such hearing to allow the pupil and his parents or guardian to prepare their response to the charge. Any pupil who is within the age of compulsory attendance, who is expelled or denied enrollment as herein provided, shall come under the purview of the youth rehabilitation law, and an authorized representative of the board shall file a petition with the magistrate division of the district court of the county of the pupil's residence, in such form as the court may require under the provisions of section 16-1807, Idaho Code.

The superintendent of any district or the principal of any school may temporarily suspend any pupil for disciplinary reasons or for other conduct disruptive of good order or of the instructional effectiveness of the school. A temporary suspension by the principal shall not exceed five (5) school days in length; and the school superintendent may extend the temporary suspension an additional ten (10) school days. Provided, that on a finding by the board of trustees that immediate return to school attendance by the temporarily suspended student would be detrimental to other pupils' health, welfare or safety, the board of trustees may extend the temporary suspension for an additional five (5) school days. Prior to suspending any student, the superintendent or principal shall grant an informal hearing on the reasons for the suspension and the opportunity to challenge those reasons. Any pupil who has been suspended may be readmitted to the school by the superintendent or principal who suspended him upon such reasonable conditions as said superintendent or principal may prescribe. The board of trustees shall be notified of any temporary suspensions, the reasons therefor, and the response, if any, thereto.

The board of trustees of each school district shall establish the procedure to be followed by the superintendent and principals under its jurisdiction for the purpose of effecting a temporary suspension, which procedure must conform to the minimal requirements of due process.

Appendix 7I
CRIMES AND CRIMINAL PROCEDURE DEFINITIONS

EXCERPTS FROM*:
United States Code Annotated
Title 18. Crimes and Criminal Procedures
Part I—Crimes
Chapter 44—Firearms

Current through P.L. 104-333, approved 11-12-96

**Note: Missing Text*

§ 930. Possession of firearms and dangerous weapons in Federal facilities

**Note: Missing Text*

(G) As used in this section:

**Note: Missing Text*

(2) The term "dangerous weapon" means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than 2 ½ inches in length.

EXCERPTS FROM*:
United States Code Annotated
Title 21. Food and Drugs
Chapter 13—Drug Abuse Prevention and Control
Subchapter I—Control and Enforcement
Part B—Authority To Control; Standards and Schedules

Current through P.L. 104-33, approved 11-12-96

§ 812. Schedules of controlled substances

**Note: Missing Text*

c) Initial schedules of controlled substances

Schedules I, II, III, IV, and V shall, unless and until amended[1] to section 811 of this title, consist of the following drugs or other substances, by whatever official name, common or usual name, chemical name, or brand name designated:

Schedule I

a) Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation:

(1) Acetylmethadol.
(2) Allylprodine.
(3) Alphacetylmathadol.
(4) Alphameprodine.
(5) Alphamethadol.
(6) Benzethidine.
(7) Betacetylmethadol.
(8) Betameprodine.
(9) Betamethadol.
(10) Betamethadol.
(11) Clonitazene.
(12) Dextromoramide.
(13) Dextrorphan.
(14) Diampromide.
(15) Diethylthiambutene.
(16) Dimenoxadol.
(17) Dimepheptanol.
(18) Dimethylthiambutene.
(19) Dioxaphetylbutyrate.
(20) Dipipanone.
(21) Ethylmethylthiambutene.
(22) Etonitazene.
(23) Etoxeridine.
(24) Furethidine.
(25) Hydroxypethidine.
(26) Ketobemidone.
(27) Levomoramide.
(28) Levophenacylmorphan.
(29) Morpheridine.
(30) Noracymethadol.
(31) Norlevorphanol.
(32) Normethadone.
(33) Norpipanone.
(34) Phenadoxone.
(35) Phenampromide.
(36) Phenomorphan.
(37) Phenoperidine.
(38) Piritramide.
(39) Prohepatazine.
(40) Properidine.
(41) Racemoramide.
(42) Trimeperidine.

b) Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Acetorphine.
(2) Acetyldihydrocodeine.
(3) Benzylmorphine.
(4) Codeine methylbromide.
(5) Codeine-N-Oxide.
(6) Cyprenorphine.
(7) Desomorphine.
(8) Dihydromorphine.
(9) Etorphine.
(10) Heroin.

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[1] Revised schedules are published in the Code of Federal Regulations, Part 1308 of Title 21. Food and Drug.

(11) Hydromorphinol.
(12) Methyldesorphine.
(13) Methylhydromorphine.
(14) Morphine methylbromide.
(15) Morphine methylsulfonate.
(16) Morphine-N-Oxide.
(17) Myrophine.
(18) Nicocodeine.
(19) Nicomorphine.
(20) Normorphine.
(21) Pholcodine.
(22) Thebacon.

c) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following hallucinogenic substances, or which contains any of their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) 3,4-methylenedioxy amphetamine.
(2) 5-methoxy-3,4-methylenedioxy amphetamine.
(3) 3,4,5-trimethoxy amphetamine.
(4) Bufotenine.
(5) Diethyltryptamine.
(6) Dimethyltryptamine.
(7) 4-methyl-2,5-dimethoxyamphetamine.
(8) Ibogaine.
(9) Lysergic acid diethylaminde.
(10) Marihuana.
(11) Mescaline.
(12) Peyote.
(13) N-ethyl-3piperidyl benzilate.
(14) N-methyl-3-piperidyl benzilate.
(15) Psilocybin.
(16) Psilocyn.
(17) Tetrahydorcannabinols.

Schedule II

a) Unless specifically excepted or unless listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable, origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate.
(2) Any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause (1), except that these substances shall not include the isoquinoline alkaloids of opium.
(3) Opium poppy and poppy straw.
(4) Coca leaves except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed; cocaine, its salts, optical and geometric isomers, and salts of isomers; ecgonine, its derivatives, their salts,

isomers, and salts of isomers; or any compound mixture, or preparation which contains any quantity of the substances referred to in this paragraph.

b) Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, ester, ether, salts, and salts of isomers, ester, and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation:
(1) Alphaprodine.
(2) Anaileridine.
(3) Besitramide.
(4) Dihydorcodeine.
(5) Diphenoxylate.
(6) Fentanyl.
(7) Isomethadone.
(8) Levomethorphan.
(9) Levorphanol.
(10) Metazocine.
(11) Methadone.
(12) Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane.
(13) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic acid.
(14) Pethidine.
(15) Pethidine-Intermediate-A, 4-cyano-1methyl-4-phenylpiperidine.
(16) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate.
(17) Pethidine-Intermediate C, 1-methyl-4-phenylpiperidine-4-carboxylic acid.
(18) Phenazocine.
(19) Piminodine.
(20) Racemethorphan.
(21) Racemorphan.

c) Unless specifically excepted or unless listed in another schedule, any injectable liquid which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers.

Schedule III

a) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:
(1) Amphetamine, its salts, optical isomers, and salts of its optical isomers.
(2) Phenmetrazine and its salts.
(3) Any substance (except an injectable liquid) which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers.
(4) Methylphenidate.

b) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:

(1) Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid.
(2) Chorhexadol.
(3) Glutethimide.
(4) Lysergic acid.
(5) Lysergic acid amide.
(6) Methyprylon.
(7) Phencyclidine.
(8) Sulfondiethylmethane.
(9) Sulfonethylmethane.
(10) Sulfonmethane.

c) Nalorphine.

d) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:

(1) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium.
(2) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.
(3) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium.
(4) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.
(5) Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.
(6) Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.
(7) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.
(8) Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

e) Anabolic steroids.

Schedule IV

(1) Barbital.
(2) Chloral betaine.
(3) Chloral hydrate.
(4) Ethchlorvynol.
(5) Ethinamate.
(6) Methohexital.
(7) Meprobamate.
(8) Methylphenobarbital.
(9) Paraldehyde.
(10) Petrichloral.
(11) Phenobarbital.

Schedule V

Any compound, mixture, or preparation containing any of the following limited quantities of narcotic drugs, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

(1) Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams.
(2) Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams.
(3) Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams.
(4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit.
(5) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams.

d) Repealed. Pub. L. 98-473. Title II. § 509(b) . 98 Stat. 2072. (Oct. 12. 1984) .

Appendix 7J

FUNCTIONAL BEHAVIOR ASSESSMENT/ BEHAVIOR INTERVENTION PLAN

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Appendix 7J

FUNCTIONAL BEHAVIOR ASSESSMENT/ BEHAVIOR INTERVENTION PLAN

The purpose of this appendix is to define and describe the components of both a functional behavior assessment and a behavior intervention plan as part of a positive behavioral support process to be used by school personnel. These terms are referred to in the *Idaho Special Education Manual* in sections that address behavior problems interfering with the student's learning or that of others in the educational environment. See Chapter 4, Section 3, p. __, and Chapter 7, Section 13, page 129. The information included in this appendix provides an overview of some strategies and techniques, but it does not advocate one philosophy over another nor will it be sufficient in providing educators all the technical assistance that may be needed.

When dealing with behavior issues of students with disabilities, it is the responsibility of all educators involved in IEP teams to be knowledgeable about the components in this appendix. Everyone shares in the responsibility of considering positive behavioral supports if student behavior needs are to be addressed. The demand to collaborate with all relevant personnel has increased in recent years in order to resolve student behavior problems that seem to interfere with academic progress in the general curriculum and the provision FAPE. Information about who participates on an IEP team and the roles of the IEP team members can be found in Appendix 4A, on page A-60.

Information from a functional behavior assessment may be needed to understand why problem behavior occurs and sometimes continues to occur. A functional behavior assessment may be needed for an initial evaluation or a reevaluation of a student, during the development or review of an individualized education program (IEP), or as part of disciplinary procedures. While conducting a functional behavior assessment, it will be important to document any information regarding intervention strategies or teaching methods that have already been tried and whether there was ever a positive or negative impact upon the behavior. Other information that may also affect student behavior, such as environmental or medical factors, needs to be gathered. Finally, it is sometimes the response of others that paints the picture of why student behavior is occurring. Refer to Attachment B , on page A-197 of this appendix for a list of assessment resources that can be used for collecting information about why behavior exists or persists.

Based on the results of a functional behavior assessment, a behavior intervention plan is developed and incorporated in or attached to the IEP, when appropriate. The plan must consist of positive intervention strategies and supports to address the behavior and needs of the student. A behavior intervention plan can be very effective in reducing the need for such extreme disciplinary measures such as suspension or expulsion. Refer to Attachment D, on page A-207 of this appendix for some ideas on positive support strategies.

A functional behavior assessment and behavior intervention plan are also a part of the legal requirements to follow when removing a student with a disability from his or her current educational placement. When disciplinary actions are taken that result in the removal of a student with a disability for more than 10 cumulative school days or a change of placement occurs, as defined by the IDEA, the IEP team must review all evaluation and diagnostic results pertaining to the student. During this review, the IEP team must either plan to conduct a functional behavior assessment and develop a behavior intervention plan or determine if a student's current behavior intervention plan needs modifications.

Conducting a functional behavior assessment and/or developing a behavior intervention plan can be fairly simple or quite complicated depending upon the specific concerns of the student being addressed. However, there are basic components regardless of the situation. These basic components are described further in the following sections:

Section 1. Functional Behavior Assessment

A. Definition

Functional behavior assessment is a process for gathering and recording information that can be used to develop a theory about why behavior occurs or recurs. A thorough assessment can maximize the effectiveness and efficiency of a behavior intervention plan.

B. Five Components and Outcomes

A functional behavior assessment has 5 problem-solving components with clearly defined outcomes that require educators to be observant and to consider the world from the student's perspective. The five problem-solving components in a behavior assessment require evaluators to (1) define the problem, (2) identify specific events, situations, and times, (3) gather other relevant information, (4) identify consequences maintaining behavior, and (5) develop a theory. This appendix includes assessment resources in Attachment B, page A-197 that can be acquired and used to collect specific information about a student's behavior. Sample forms in Attachment A, page A-189 have also been provided in this appendix and may be used with each component to document the five outcomes in the process.

The five components of the process and intended outcomes are described as follows:

1. **Define the problem** in clear, observable terms so it is recognizable to everyone and not subject to confusing interpretations. Avoid vague words and ask yourself, "What is the problem?" "What does the behavior look like?" If there are several problems, decide where to start. The sample form on page A-190 for component 1, *Define the Problem*, may be used by evaluators to record the written description of the target behavior.

   Outcome: A clear written description of the problem behavior.

2. **Identify specific events, times, and situations** in order to look for patterns that will indicate what appears to set off the problem behavior. An Antecedent-Behavior-Consequence (A-B-C) observation may be useful to record data at this point. Other assessment methods such as interviews or checklists can also provide necessary data. Answer key questions that consider when the behavior usually occurs and usually does not occur, such as, "Who is there?" "What is going on at the time?" "What happened prior to the behavior?" and "When and where does it happen?" The sample form on page A-191 for component 2, *Identify Events, Times, and Situations,* may be used to help summarize the specific data collected from interviews, record reviews, checklists, observations, or systematic probes in the classroom.

   Outcome: The ability to predict when the problem behaviors are most likely and least likely to occur across the range of typical daily routines.

3. **Gather background information** to consider medical, physical, and social concerns; eating, diet, and sleep routines; substance abuse history; stressful events; and past interventions extending back several years. Issues may be revealed that have contributed to the occurrence of the behavior. The sample form on page A-192 for component 3, *Gather Information,* may be used to record the information about important events or factors that tend to be associated with the problem behavior.

   Outcome: Specific biological, physiological, or environmental factors that have a causal effect on the behavior may surface.

4. **Identify the consequences** that might be maintaining the behavior. This includes information about what happens after the behavior occurs that increases the likelihood that the student will perform the behavior again in the same circumstances. Identifying the consequences also means defining what the desired behavior was and examining the availability of reinforcement for that desired behavior. The sample form on page A-193 for component 4, *Identify Consequences Maintaining the Behavior*, may be used to record what happens after the behavior occurs and how the consequences work for the student.

   Outcome: Determination of what function the problem behavior appears to serve for the student and an initial identification of some potential strategies and interventions.

5. **Develop a theory** about what purpose the behavior has for the student. This would include one or more summary statements as to why the student engages in the problem behavior. Ask yourself, "What is the functional intent of the student's behavior?" The sample form on page A-194 for component 5, *Develop a Theory,* may be used in describing the purpose or function of the behavior.

   Outcome: One or more hypotheses that describe specific behaviors, the situations in which they occur, and the consequences maintaining the behaviors in that situation.

The information gathered through this five step process can be compiled on the *Functional Behavioral Assessment Summary* form on page A-195.

C. Process

The complexity of the five components in the functional behavior assessment process will vary depending on the student and possible controlling factors or variables. Research on functional behavior assessments indicates that no one method or assessment tool will provide all the outcomes mentioned and give valid, reliable results all the time. Therefore, a functional behavior assessment could consist of assessment methods selected from a continuum of options ranging from low effort and precision to high effort and precision.

Low effort/precision				High effort/precision
Interviews/ record review	Teacher-recorded observations	Direct observations/ checklists by others	Other systematic probes in the classroom w/direct observations	Assessment w/direct experimental manipulation of variables in other setting

When IEP team members collaborate in a problem-solving approach, they can determine which of these assessment methods may be sufficient in gathering and recording information to develop a theory about the function of a particular behavior. The IEP team members should combine their knowledge and identify the method(s) that will most likely clarify the factors or variables that affect the student's behavior. This may mean that evaluators begin with the lowest level of assessment methods and increase efforts gradually in order to arrive at an analysis that identifies the factors or variables influencing the behavior and that can be changed to produce socially accepted outcomes.

The result of a functional behavior assessment is that (1) the problem has been clearly defined, (2) relevant background information becomes clear, (3) behavior patterns have emerged, (4) the function of the behavior becomes apparent, and (5) the IEP team has enough information to begin discussing strategies to include in a behavior intervention plan. The assessment process is repeated as necessary until a positive behavior change has been sustained over time.

Section 2. Behavior Intervention Plan

A. Definition

A behavior intervention plan is comprised of practical and specific strategies designed to increase or reduce a definable set or pattern of behaviors exhibited by a student. These strategies include preventive techniques, teaching replacement behaviors or specific skills, and how to respond to the behavior of concern (refer to Attachment D, on page A-207 in this appendix for a list of specific ideas).

B. Components of a Behavior Intervention Plan

A behavior intervention plan also involves components of a problem-solving approach. Sample forms in Attachment C, on pages A-203 and A-204 may be used in writing a behavior intervention plan and for the entire process. Research has indicated that an effective intervention plan must include the following:

1. **Definition of the target behavior** in measurable terms.
2. **Plan of prevention** that will change identified events, times, situations, or other factors that trigger the target behavior.
3. **Plan to teach** the student another behavior or skill that will compete with the misbehavior, and can accomplish the student's purpose with just as much immediacy and effort but in a more acceptable way.
4. **How to respond** to the student's behavior in a way that will reinforce appropriate behavior. The IEP team should identify reactions and consequences to the problem behaviors that will not reinforce the student's inappropriate purpose (function) or cause others greater upset and stress.
5. **How to manage a crisis situation**, if appropriate. (See Attachment E, on page A-213 for crisis management guidelines.)
6. **Appropriate data collection system** that measures progress toward the desired goal of the plan so that if the rate of progress falls below the expectation, interventions can be changed.
7. **Review date** to reconsider the plan.

The sample form, *Behavior Intervention Plan,* located in Attachment C, on pages A-203 and A-204 of this appendix, may be used or be written into an IEP with the corresponding goals and benchmarks/objectives.

C. Additional Considerations in the Behavior Intervention Plan Process

1. Prior to implementing a behavior intervention plan, all staff who have a responsibility in the plan must be trained to implement the plan consistently. A time line for collecting necessary materials, making environmental arrangements, and training staff needs to be established. Specific tasks should be clearly assigned to the individuals involved. Decide how to start the intervention plan and whether it should be implemented in one portion of the student's day or throughout the entire day. Sometimes, implementation in one portion of the day may allow staff to control some of the variables and monitor the effectiveness or changes during that particular time before trying the supports throughout

the day. The sample form on page A-205 in Attachment C, *Implementation of the Behavior Intervention Plan,* may be used to assist the IEP team in recording what needs to occur before the plan begins.

2. Implement the plan consistently by the staff involved in the intervention plan and ensure staff are informed of their responsibilities in providing services to the student.
3. Reconsider the plan. Give the plan at least two weeks to start to work and then ask, "How is it going?" At this point, evaluate (1) how successful personnel were in implementing the plan consistently and correctly; and (2) how successful the plan was in preventing the target problem behavior or increasing new appropriate behaviors. The sample form on page A-206 in Attachment C, *Reconsidering the Behavior Intervention Plan,* may be used to help the IEP team record the successes and areas of difficulties in the behavior intervention plan after it has been implemented.
4. If the procedures and steps that have been taken are determined ineffective, alternative interventions may be selected or the IEP team may consider conducting further assessments to gain more precise information. Sometimes other factors may actually be affecting the occurrence of the problem behavior.
5. If interventions are repeatedly found to be ineffective, decide if the conditions of the intervention plan were consistent or if a different placement may be needed. Think of changes in a behavior intervention plan as fine tuning rather than major failures.

D. The Use of Extraordinary or Aversive Discipline Procedures

Nonaversive, low-level interventions always need to be the first option in managing student behavior. It is critical that aversive discipline management procedures be selected and supervised with the utmost care. These procedures may include seclusionary time-outs, physical restraints, room clears, etc. If any extraordinary procedures are required, they will be considered by the IEP team (including the parent), which must:

1. document the validity of the procedure;
2. document the need for the procedure with objective data; and
3. document the training of the staff who will use the procedure.

Section 3. Manifestation Determination

Whenever a change of placement as a result of disciplinary action is contemplated or occurs, the IEP team needs to conduct a manifestation determination which is a review of the relationship between the student's disability and the behavior resulting in the disciplinary action. The IEP team must determine if (1) the student's IEP and placement were appropriate in relation to the behavior, (2) the special education services, supplementary aids and services, and behavior intervention strategies consistent with the IEP were provided, (3) the student had the ability to understand the impact and consequences of the behavior, and (4) the student had the ability to control his or her behavior.

1. Functional Behavior Assessment Results

Either before or not later than 10 days after the decision to make a placement change, a functional behavior assessment must be planned if one has not been conducted and there is no behavior intervention plan to review. The results will be critical for the IEP team to consider when carrying out a review in a manifestation determination.

2. Results of Eligibility Evaluations or Reevaluations

It is important that during any evaluation, the assessment tools and strategies used should be providing relevant information that will determine all the needs of the student, not just those that are commonly linked with the disability category in which the student has been classified. If a thorough assessment (which may include a functional behavior assessment) has been conducted, a manifestation determination review will be easier to conduct.

3. Special Considerations by the IEP Team

During the development of any IEP, the IEP team should have considered behavior that impedes the student's learning, and that of others, and to have had positive intervention strategies and supports to address that behavior when appropriate. If a behavior intervention plan in an IEP has been well implemented, then a manifestation determination is likely to be easier for the IEP team.

Section 4. Technical Assistance

The information contained herein is a minimal presentation on positive behavior supports including functional behavior assessments and a behavior intervention plan. For more information, contact your regional special education consultant office at the universities.

Region I	University of Idaho	208-885-6544
Region II	Boise State University	208-426-4315
Region III	Idaho State University	208-236-3610

Attachment A
Sample Functional Behavior Assessment Forms

Component 1: Define the Problem A-190

Component 2: Identify Events, Times, and Situations A-191

Component 3: Gather Information A-192

Component 4: Identify Consequences Maintaining the Behavior A-193

Component 5: Develop a Theory A-194

Functional Behavioral Assessment Summary A-195

Functional Behavior Assessment Component 1:
Define the Problem

Student: ______________________________ Date: ____________

Describe the problem behavioral in observable terms. Be as specific as possible. Indicate how serious each problem is (destructive, disruptive, or distracting). Decide which behavior(s) you will begin to gather information on first in order to design a behavior intervention plan.

Description of Problem Behavior	**Level of Seriousness**
1. ______________________________	☐ Destructive ☐ Disruptive ☐ Distracting
2. ______________________________	☐ Destructive ☐ Disruptive ☐ Distracting
3. ______________________________	☐ Destructive ☐ Disruptive ☐ Distracting
4. ______________________________	☐ Destructive ☐ Disruptive ☐ Distracting

Functional Behavior Assessment Component 2: Identify Events, Times, and Situations

Student: ____________________ Date: ____________

Target Behavior: ______________________________

Answer these key questions in measurable terms using specific data gathered from all the assessment tools used by the evaluation team. Patterns of behavior may emerge as you answer the questions. Be as specific as possible. General data and information will not assist the IEP team in developing an effective behavior intervention plan.

Who is present . . .

when the behavior tends to occur?	when the behavior almost never occurs?

What is going on . . .

when the behavior tends to occur?	when the behavior almost never occurs?

When does the behavior . . .

tend to occur?	almost never occur?

Where does the behavior . . .

tend to occur?	almost never occur?

How often does the behavior occur . . .

Per hour? __________ Per day? __________ Per week? __________

How long does the behavior occur . . .

Per episode______________________________

Functional Behavior Assessment Component 3:
Gather Information

Student: ______________________________ Date: ____________________

Consider the following factors and record any relevant information that has or may have an impact on the student's behavior. Information can be gathered from interviews or record reviews.

1. Medical, physical, and social concerns (such as medications, illnesses, disfigurements, allergies, lack of friends, inappropriate sexual contacts)

2. Eating, diet, and sleep routines

3. Substance abuse history (types, frequency of use, when and where use occurs, legal problems related to abuse, recent increase or decrease in use)

4. Stressful events and family history (family information, siblings, difficult transitions, emotional losses, etc.)

Functional Behavior Assessment Component 4: Identify Consequences Maintaining the Behavior

Student: ______________________________ Date: __________________

Target Behavior: ____

Answer these key questions regarding what happens after the behavior occurs. Be specific using data collected about consequences. General responses do not assist in the development of an effective behavior intervention plan.

What are the reactions . . .

of other people in the environment?

of the student toward the other people?

When the behavior occurs, what do . . .

Teachers do?

Peers do?

Parents do?

What consequence methods have been used . . .

in the past at school and how did they work?

at home and how did they work?

What seems to improve the behavior . . .

in a short period of time?

if all else fails?

Functional Behavior Assessment Component 5:
Develop a Theory

Student:________________________________ Date:______________________________

Target Behavior:____

Use the assessment information collected about the behavior and decide what purpose or function it has for the student. The following checklist may be helpful in developing a theory. Write a theory statement at the bottom.

Determining the Purpose of a Problem Behavior

N	S	O	N=Never S=Sometimes O=Often
			The purpose of the behavior may be **Attention** if . . .
☐	☐	☐	It occurs when you are not paying attention to the student (e.g., you are talking to someone else in the room, talking on the phone, too busy to have a chat, etc.).
☐	☐	☐	It occurs when you stop paying attention to the student.
			The purpose of the behavior may be to **Get/Obtain Something** if . . .
☐	☐	☐	It occurs when you take away a favorite activity, food, toy, free time, etc.
☐	☐	☐	It stops soon after you give the student what he or she seems to want or has recently requested.
☐	☐	☐	It occurs when the student can't have what he or she desires.
			The purpose of the behavior may be **Escape/Avoidance** if . . .
☐	☐	☐	It occurs when you ask the student to do something (e.g., getting ready to change activities, write assignments, speak in front of peers, read in class) that he or she doesn't seem to like or want to do.
☐	☐	☐	It stops after you stop "making demands."
			The purpose of the behavior may be **Play** if . . .
☐	☐	☐	It occurs over and over again in a cyclical manner with friends or peers.
☐	☐	☐	It occurs when no else is around or the student seems to enjoy performing the behavior (e.g., smiles, laughs).
☐	☐	☐	The student seems to be in his or her "own world" and can't do other things at the same time.
			The purpose of the behavior may be **Self-Stimulation** if . . .
☐	☐	☐	It tends to be performed over and over again, in a rhythmic or cyclical manner.
☐	☐	☐	It tends to happen when there is either a lot going on or very little (e.g., noise, movement, people, activity).
☐	☐	☐	The student can still do other things at the same time as performing the behavior.
			The purpose of the behavior may be **Control/Power** if . . .
☐	☐	☐	The student tends to be bossy.
☐	☐	☐	The student wants to show others he or she can't be pushed around.
☐	☐	☐	The student often refuses to comply and seems to want to disrupt the established order.

THE MAIN PURPOSE OR FUNCTION OF THE BEHAVIOR IS . . .

*Adapted from Durand & Crimmins, 1988.

Functional Behavioral Assessment Summary

Student's Name: ______________________ **Birth date:** ______ **Age:** ________ **Grade:** ______

Behavior: What is the inappropriate or unacceptable behavior to be targeted for intervention. Be specific. Give examples and non-examples.

Events, Times, and Situations: What specific events trigger the behavior? Include who, what, when, where, and how often information obtained from interviews, observations, assessments, or record reviews.

Relevant Information: What circumstances make the behavior more likely to occur (medical concerns, diet and sleep routines, substance abuse, family history, emotional losses or social concerns, etc?)

Consequences: What responses or reactions occur after the behavior that appear to maintain the behavior?

What responses or reactions occur that appear to diminish/discourage the behavior?

Function of the Behavior: Gain/obtain or Escape/Avoid something are the most common reasons. (Consider reasons related to attention, acceptance or affiliation, power and control, self stimulation, expression of self, justice or revenge, a means of communication, etc.)

Hypothesis Statement: For example: " On mornings when Marty misses breakfast (condition) and rides the bus for an hour (condition), he becomes angry (internal event) when his peers tease him (precipitating event). He starts to hit (behavior) students who are teasing him and says abusive words (behavior), and then they stop to tell an adult about his behavior (consequence). Escaping the teasing appears to be the purpose of the behavior."

Predictions: Statements answering the question, "What might happen if. . .?" Brainstorm possible solutions to prevent the behavior, teach new skills, or use positive or negative responses. For example:

> "If Marty eats breakfast, he will not react to the teasing by hitting other students."
>
> "If Marty is taught a way to respond to teasing and control is anger, hitting will not occur."
>
> "If Marty receives positive rewards for days he does not hit others, the hitting will stop occurring."

Select one or more of the predictions to test the hypotheses. Develop a Behavioral Intervention Plan. Provide ongoing support to the person(s) implementing the plan. Use the data collected during implementation of the plan to include in the functional behavioral assessment over time.

Attachment B
Assessment Resources

Title: **Functional Assessment Observation Form**

Purpose: To validate and clarify summary statements about events that predict and maintain problem behaviors. If informant methods fail to provide clear and helpful information, direct observation data will be the basis for the summary statements or hypotheses to guide development of the support plan.

Description: The form is a simple, straight forward event recording procedure that maximizes the comprehensive information obtained, while avoiding lengthy anecdotal descriptions. This form can be used in multiple settings to record behaviors exhibited at a low to moderate frequency (fewer than 20 times per day). It is recommended that a time sampling approach be used (15-minute block in a one hour period). Data is collected over a period of 2 to 5 days by someone familiar with the student. The form indicates (1) the number of events of problem behavior, (2) the problem behaviors that occur together, (3) the times when the problem behavior events are most and least likely to occur, (4) events that predict problem behavior events, (5) perceptions about the maintaining function for problem behaviors, and (6) actual consequences following problem-behavior events.

Source: O'Neill, R. E., Horner, R. H., Albin, R. W., Sprague, J. R., Storey, K., & Newton, J. S. (1997) . *Functional assessment and program development for problem behavior*. (pp. 35-54) . Pacific Grove, CA: Brooks/Cole Publishing.

Ordering:
Brooks/Cole Publishing Company
511 Forest Lodge Road
Pacific Grove, CA 93950-9968
(408) 373-0728

Title: **Motivation Assessment Scale**

Purpose: The scale is a questionnaire designed to identify situations in which a student is likely to behave in certain ways. This information can inform decisions concerning the selection of appropriate rewards and treatments.

Description: Informants are asked to rate the likelihood of behaviors occurring in different antecedent conditions. The data is then analyzed to identify the maintaining variables. The scale contains 16 brief descriptions of behavior in the form of questions. The informant responds to each description on a continuum from never occurring to always occurring. Responses are scored to determine if the behavior is being reinforced by sensory stimulation, escape from an undesirable situation, attention, or some tangible reinforcer.

Source: Durand, M., & Crimmins, D. (1992) . *Motivation assessment scale*. Glenview, IL: Monaco and Associates.

Ordering:
Monaco & Associates
1625 Blackthorn Drive
Glenview, IL 60025
1-800-798-1309

Title: Functional Assessment Interview Form

Purpose: To collect information about events that influence problem behavior in order to identify those variables—settings, events, activities—that can be targeted through direct observation and/or systematic manipulation strategies.

Description: The informants are teachers, parents, and others who have direct daily contact with the subject. The four main outcomes of a functional assessment interview are similar to the outcomes for the functional assessment process as a whole:

1. description of the behavior of concern;
2. identification of general and more immediate physical and environmental factors that predict the occurrence and nonoccurrence of the problem behaviors;
3. identification of the potential function of a behavior in relation to the outcomes or consequences that are maintaining them; and
4. development of summary statements describing relationships among situations, behaviors, and their functions.

The process ends with the interviewer completing a *Summary Statement* form, which identifies the predictor and consequences for the problem behavior.

Source: O'Neill, R. E., Horner, R. H., Albin, R. W., Sprague, J. R., Storey, K., & Newton, J. S. (1997) . *Functional assessment and program development for problem behavior*. (pp. 9-16) . Pacific Grove, CA: Brooks/Cole Publishing.

Ordering:
Brooks/Cole Publishing Company
511 Forest Lodge Road
Pacific Grove, CA 93950-9968
(408) 373-0728

Title: **Student-Directed Functional Assessment Interview**

Purpose: To gain the student's perspective on circumstances related to the problem behavior.

Description: A 20 to 40 minute interview is conducted with students who can provide reliable information. The interviewer should be someone who does not have a negative history with the subject. The main outcome of the interview corresponds to those of a functional behavior assessment. The process ends with the interviewer completing a *Summary Statement* form, which results in the development of specific hypotheses about the function of the behavior.

Source: O'Neill, R. E., Horner, R. H., Albin, R. W., Sprague, J. R., Storey, K. & Newton, J. S. (1997) . *Functional assessment and program development for problem behavior*. (pp. 17-35) . Pacific Grove, CA: Brooks/Cole Publishing.

Ordering: Brooks/Cole Publishing Company
511 Forest Lodge Road
Pacific Grove, CA 93950-9968
(408) 373-0728

Title: **Problem Behavior Questionnaire**

Purpose: A teacher-based questionnaire to help develop a functional hypothesis of problem behavior in general education classrooms.

Description: A 7-point Likert scale (0-6) ranging from never to always. Informants briefly identify the problem behavior and then answer 15 questions by indicating the frequency at which statements are true, keeping in mind a typical episode of the problem behavior.

Source: Lewis, J., Scott, T., & Sugai, G. (1994) . The problem behavior questionnaire: A teacher-based instrument to develop functional hypotheses of problem behavior in general education classrooms. *Diagnostique. 19* (2-3), 103-115.

Ordering: Not copyrighted
Interview guide located in the journal,
Diagnostique 19 (2-3), 103-115

Title: **Interaction Observation Form**

Purpose: Records observational data by an observer who rates frequency, intensity, and duration of the identified behaviors.

Description:	The observer identifies the focus student and records staff requests, positive interactions, negative interactions, inappropriate behavior, and appropriate information. Observers rate frequency and severity of behaviors, including setting information. The form is generally designed for students with severe behavioral difficulties related to a disability.
Source:	Dual Diagnosis Treatment and Training Services
Ordering:	Not copyrighted Dual Diagnosis Treatment and Training Services PO Box 738 Parsons, KS 67357-0738
Title:	**Student-Assisted Functional Assessment Interview**
Purpose:	To gain the subject's perspective on likes and dislikes about school and problems that may be occurring.
Description:	The interview guide consists of four sections. Students answer 12 questions on a Likert scale (always, sometimes, never), then are asked questions about likes, interests, and hobbies. The final two sections rate their interest in school subjects and what they like and dislike about those subjects. The interviewer should be someone who does not have a negative history with the subject.
Source:	Kern, L., Dunlap, G., Clarke, S., & Childs, K. (1994) . Student-assisted functional assessment interview. *Diagnostique 19* (2-3), 29-39.
Ordering:	Not copyrighted Interview guide located in the journal, *Diagnostique 19* (2-3), 29-39

Attachment C

Behavior Intervention Plan Forms

Behavior Intervention Plan A-203

Implementation of the Behavior Intervention Plan A-205

Reconsidering the Behavior Intervention Plan A-206

Behavior Intervention Plan

udent Name: ______________________________ Date: ____________

Target Behavior (State in observable terms, using action verbs, and identify the data collection system to measure progress):

____

____

____

Develop a Plan

Prevention: How will situations be changed that seem to be associated with the behavior?

Teach: What other behavior or skill will be taught to the student so he or she can accomplish his or her purpose in a more acceptable way?

Response: How will people respond when the problem behavior occurs so that their response does not reinforce the inappropriate behavior or cause the person interacting with the student greater upset and stress?

Prevention	Who is Responsible	How Often	Method for Monitoring Progress

Teach	Who is Responsible	How Often	Method for Monitoring Progress

Response/Crisis Management	Who is Responsible	How Often	Method for Monitoring Progress

Student Name: ______________________________ Date: __________

Target Behavior: ______________________________

Implementation of the Behavior Intervention Plan

Student Name: ______________________ Date: ____________

Describe arrangements needed to implement the behavior intervention plan.

Time line for the plan: ______________________

Training needs: ______________________

Materials needed: ______________________

Environmental arrangements: ______________________

Person Responsible	Task	Date to Initiate/Complete

Reconsidering the Behavior Intervention Plan

Student Name: ______________________ Review Date: ______________________

At this point, evaluate implementation and effectiveness of the plan.

Has everyone been able to follow the plan that was written . . .

For preventing:

For teaching:

For responding:

For crisis management:

Do you feel that the theory about the purpose of the behavior was correct?

What positive changes have you seen?

What areas of the plan need to be continued?

What areas of the plan need to be changed?

A-206

Attachment D
Strategies for Behavior Support Plans

Preventative	Teaching Behaviors	Responses
Adult supervision Appropriate and motivating curriculum Assistive technology devices or services Behavioral momentum Collection of behavioral data Environmental engineering Increased academic learning time Instructional pacing Peer involvement & influence Polite command statements Precision requests Prompting Proximity Quiet start requests Short, planned activities for transition time Staff training Structured daily schedule for on-task activities	Direct instruction of behavioral skills Functional communication training Meaningful work projects Modeling of appropriate behavior Momentum training with relaxation strategies Over-correction for positive practice Self-management Social skills training "Sure I will" program Technology device instruction	5-10 second compliance-time window Behavioral contracting Differential attention Group contingency High rate of positive responses with a 4:1 ratio In-school suspension Notes home Parent conference Response cost lottery Seclusionary time-out Structured incentives - material reinforcers - social reinforcers - edible reinforcers - natural reinforcers Token economy system Verbal, social praise "What if?" chart

Descriptions/Definitions of Behavioral Support Strategies

5-10 second compliance-time window

After a request is made, allow the student a 5-10 second time window to follow through with compliance.

Appropriate and motivating curriculum

A curriculum too difficult or easy is likely to increase inappropriate behavior. An appropriate curriculum provides a student with success but is challenging enough to elicit progress. Interests, learning styles, multiple intelligences, and preferences are considered.

Assistive technology devices and services

Consider the need for adaptive equipment that elicits success and motivation.

Behavioral contracting

Written documents are mutually agreed on between a student and a teacher specifying expected behaviors and consequences.

Behavioral momentum

Student is given a series of high-compliance requests before a low-probability compliance request.

Data collection

Collecting information about what triggers inappropriate behaviors and then making decisions based on data

Differential attention

The teacher differentially (separately) pays attention to appropriate behavior and ignores inappropriate behavior. One way is to ignore the misbehavior, wait, and then praise any appropriate behavior. A second approach is to ignore the misbehavior of a student and praise a student nearby for the appropriate behavior.

Direct instruction of basic skills and/or social skills

An instructional approach that emphasizes the use of group instruction and face-to-face instruction by teachers or aides using carefully sequenced lessons. There are specific characteristics: presentations are scripted and fast paced, skills are taught to mastery, motivation is maintained by praise and encouragement, and when students make errors, correction is immediate, using specific correction procedures.

Environmental engineering

Arrangement or manipulation of the physical environment and stimuli can facilitate appropriate responses and avoid disruption.

Functional communication training

Appropriate forms of communication can serve to replace problem behavior that has become a means of communication for a student. Communicative responses to serve as alternatives to the inappropriate behavior are developed, such as asking for a break instead of trying to escape a difficult task.

Group contingency

A system for the delivery of a reward to an entire group based on the behavior of the individuals in that group. There are three basic types of group contingencies: (1) individual-all group contingency, (2) independent-group contingency, and (3) group-all group contingency.

High rate of positive responses from teachers

Teachers must create a positive environment by frequently reinforcing a student for appropriate and correct responses. A 4:1 ratio of positive to negative responses is recommended.

Home notes

The purpose of home notes is to provide clear, precise communication between school and home.

In-school suspension

An alternative to out-of-school suspension designed to deny a student the opportunity to receive the positive reinforcement available in the regular school setting for a fixed period of time.

Increased academic learning time

The amount of time the student is actually engaged in and experiencing success is increased. The time must be spent on learning essential skills and not on meaningless tasks. Teachers should try to achieve a level of academic learning time of no less than 70 percent. Variables that can be addressed are beginning on time, minimizing housekeeping tasks, and minimizing transition times.

Instructional pacing

If the rate at which the teacher presents instructional material to the learner is too fast or too slow, inappropriate behavior is likely to increase.

Meaningful work projects

Students participate in a "jobs program" within the school in which they are viewed as valuable, contributing employees of the school.

Modeling/differential reinforcement of appropriate behavior

A student learns behavior by observing a modeled response or practicing the desired behavior.

Momentum training with relaxation strategies

Teachers use a series of requests related to relaxation. Requests to use deep breathing, muscle tension-relaxation cycles, or stretching can be incorporated into direct instruction and a momentum routine.

Over correction for positive practice

Students intensely practice the appropriate behavior for a time period or a specific number of appropriate behaviors.

Parent conference

Parent must be involved in the problem resolution.

Peer involvement

The use of same-age and/or cross-age peers for structured social engagements, and as "buddies."

Planned activities for transition time

Provide the structure for a student to close one activity and to do what is necessary before initiating the next one. Allowing students to assist in everyday housekeeping tasks that are necessary can be helpful.

Polite command statements

Phrase a request as a polite command statement instead of using a question format, such as "Please start your math paper, " instead of "Wouldn't you like to start your math paper?"

Precision commands

Precise verbal statements enhance compliance.

Precision requests

A clear, concise statement to a student to prompt appropriate behaviors or to stop inappropriate behaviors. When a request is followed, a social reinforcer is used and a mild pre-planned negative consequence when the request is not followed. If a negative consequence is delivered, repeat the request cycle until the student follows the request.

Prompting

A visual, auditory, or physical cue is presented to a student to facilitate a given response.

Proximity

A request or reprimand should be made at approximately three feet or arms length. Randomly walking around the room to stand near a student with problem behavior actually prevents the inappropriate behavior from occurring.

Quiet start requests

Make a quiet request to start a task or change a behavior, so the rest of the class is not disturbed. A low voice, a written note, or visual prompts can be effective in gaining compliance.

Response cost lottery

A response cost is a system in which the student loses something he or she has. A lottery means that the teacher gives each student five or more tickets with his or her name on it. If a student breaks a rule or does not follow a request, a ticket is taken away. At the end of the day, the tickets are collected from all students and three or four names are drawn to receive a reward.

Seclusionary time-out

Time-out is not a place; rather, it is a procedure whereby a student is removed from a reinforcing environment to a less reinforcing environment in a special place when misbehavior occurs. The room must be a room with no other purpose. A student must never be left unattended by a staff member in the room.

Self-management procedures

Student is taught how to monitor and manage his or her own behavior.

Social skills training

Instruction that focuses on skills such as social problem solving, cooperative play and work, turn-taking, and conversational skills. This instruction could be provided individually or in a group format.

Staff training

All staff must be thoroughly trained in the use of the interventions and the importance of data collection while using behavior intervention strategies.

Structured incentives

A positive reinforcer is given to a student contingent on his or her appropriate behavior. Careful selection and use of a positive reinforcers are critical. Determine which of the four types of reinforcers will be of value and desired by the student, not what the teacher or parent thinks the student should value or desire. The four types of reinforcers are material, social, edible, and natural.

Structured daily schedule for on-task activities

Unengaged time is likely to accelerate a student's inappropriate behaviors. Preparing and using a visual cue for a daily schedule can maximize on-task behavior. Alternative methods, which use the auditory or tactile senses of a student, could also be used.

Supervision

School staff must provide adequate and appropriate supervision and use teachable moments.

"Sure I will" program

If a teacher asks a student to do something, the student is taught to respond with the words, "Sure I will" and begin the requested behavior. It helps if the student is randomly rewarded for saying "Sure I will."

Token economy

A student is rewarded for behavior that is occurring with tokens that can later be exchanged for reinforcers.

Verbal, social praise

Any verbal or nonverbal action by a teacher or adult that indicates approval of or satisfaction with the student's behavior. Examples: "That's good working." "I appreciate your time on-task."

"What if?" chart

A chart that designs a hierarchy of positive and negative consequences that details how much or how long each consequence will be used. The negative consequences increase in severity as they go down the hierarchy.

Attachment E
Crisis Management Guidelines

1. If an emergency situation occurs that requires the immediate use of crisis management procedures to protect the student or others from harm, staff must notify the student's parent within 24 hours. A written description of the situation must be submitted to the appropriate administrator for each emergency occurrence within 24 hours.

2. Emergency Definition:

   a. **Danger to others:** physical violence toward others with sufficient force to cause bodily harm;

   b. **Danger to self:** self-abuse of sufficient force to cause bodily harm; or

   c. **Destruction of property:** severe destruction or physical abuse of property.

   It must be noted that ***threatened abuse*** toward others, self, or property may be considered an "emergency" situation if there is sufficient evidence and likelihood that the threat will lead to any of the above-mentioned behaviors if immediate action is not taken.

   Further, if an "emergency" behavior occurs more than once per week, two times in a month, or a total of four times in a year, a behavior intervention program must be designed or reconsidered to correct the problem behavior. Repeated emergency behavior must not be allowed to continue and must be addressed in the IEP.

3. Trained Staff:

   Emergency procedures must only be used by trained and competent staff. Training must occur before implementation of any extraordinary emergency procedures. All individuals should understand the procedures. A trained staff member should be within a reasonable proximity of the student to react with the intervention if necessary.

4. Emergency Intervention Strategies:

   To deal with "emergency" behavior in an effective and humane manner, a range of alternative techniques, from the least intrusive to the most intrusive, may be necessary. One possible sequence of alternatives, from least to most intrusive, would begin with alterations of the environment and progress to redirection, seclusionary time-out, physical restraint and finally, law enforcement intervention. Indicate the specific intervention strategy that will be used, for example, Mandt procedures or room clears.

References

The information in this appendix was adapted from the following resources:

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Fodor, J., Cloud, C., & Parks, L. (1997) . *Positive behavioral supports: Training manual*. Moscow, ID: Center for Disabilities and Human Development, University of Idaho.

Hamilton, R., Welkowitz, J., Mandeville, S., Prue, J., & Fox, T. *Prevention, teaching & responding: A planning team process for supporting students with emotional and behavioral difficulties in regular education*. Burlington, VT: The University Affiliated Program of Vermont.

Janney, R., Black, J., & Ferlo, M. (1989) . *A problem-solving approach to challenging behaviors*. Syracuse, NY: Syracuse University. (Contract #GOO-86-300358)

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Utah State Board of Education Special Education Rules. (1993) . *LRBI: Selection of least restrictive behavioral interventions for use with students with disabilities*. Salt Lake City, UT: Author.

Appendix 8

Appendix Contents

Appendix 8A. Dual Enrollment and Postsecondary Enrollment Options A-217

Appendix 8B. Idaho Constitution: Article IX A-221

Note: Appendices in the *Special Education Manual* contain a variety of technical assistance information, including sample letters and forms, suggestions for dealing with special education issues, and copies of various laws. The appendices should be viewed as additional resources to Chapters 1-10 in the *Special Education Manual*. The district is *not required* to adopt as policy or procedure any of the appendices in this manual to receive IDEA funding.

Appendix 8A
DUAL ENROLLMENT

Title 33 - Education
Chapter 2 - Attendance at Schools

33-203. DUAL ENROLLMENT. (1) The parent or guardian of a child of school age who is enrolled in a nonpublic school or a public charter school shall be allowed to enroll the student in a public school for dual enrollment purposes. The board of trustees of the school district shall adopt procedures governing enrollment pursuant to this section. If enrollment in a specific program reaches the maximum for the program, priority for enrollment shall be given to a student who is enrolled full time in the public noncharter school.

(2) Any student participating in dual enrollment may enter into any program in the public school available to other students subject to compliance with the same rules and requirements that apply to any student's participation in the activity.

(3) Any school district shall be allowed to include dual-enrolled nonpublic school and public charter school students for the purposes of state funding only to the extent of the student's participation in the public school programs.

(4) Oversight of academic standards relating to participation in nonacademic public school activities shall be the responsibility of the primary educational provider for that student. In order for any nonpublic school student or public charter school student to participate in nonacademic public school activities the nonpublic school or public charter school student shall achieve a minimum score on the achievement test required annually by the state board of education, and that score shall be used to determine eligibility for the following year. The student shall be eligible if the minimum composite test score places the student within the average or higher than average range as established by the test service utilized.

(5) A public school student who has been unable to maintain academic eligibility is ineligible to participate in nonacademic public school activities as a nonpublic school or public charter school student for the duration of the school year in which the student becomes academically ineligible and for the following academic year.

(6) A nonpublic school or public charter school student participating in nonacademic public school activities must reside within the attendance boundaries of the school for which the student participates.

(7) Dual enrollment shall include the option of joint enrollment in a regular public school and an alternative public school program. The state board of education shall establish rules that provide funding to school districts for each student who participates in both a regular public school program and an alternative public school program.

(8) Dual enrollment shall include the option of enrollment in a post-secondary institution. Any credits earned from an accredited post-secondary institution shall be credited toward state board of education high school graduation requirements.

(9) A nonpublic student is any student who receives educational instruction outside a public school classroom and such instruction can include, but is not limited to, a private school or a home school.

Title 33 - Education

Chapter 51 - Postsecondary Enrollment Options (Excerpts)

33-5101. PURPOSE. The purpose of this chapter is to promote rigorous academic pursuits and to provide a wider variety of options to high school pupils by encouraging and enabling secondary pupils to enroll full-time or part-time in nonsectarian courses or programs in eligible postsecondary institutions as defined in section 33-5102, Idaho Code.

33-5106. LIMIT ON PARTICIPATION.
(3) A pupil may also be enrolled in courses for secondary credits approved by the local school district. If a pupil's enrollment pursuant to this chapter decreases the pupil's instructional time in the local school district to less than four (4) hours a day, the pupil shall nevertheless be counted as in local school district instructional time for four (4) hours a day for purposes of chapter 10, title 33, Idaho Code.
(4) A pupil who has completed course requirements for graduation but has not received a diploma may participate in the program.
(5) A pupil who has graduated from high school cannot participate in the program.

33-5108. COURSES ACCORDING TO AGREEMENTS. An eligible pupil may enroll in a nonsectarian course taught by a secondary teacher or a postsecondary faculty member and offered at a secondary school, or another location, according to an agreement between a school board and the governing body of an eligible public postsecondary system or an eligible private postsecondary institution. All provisions of this section shall apply to a pupil, school board, school district and the governing body of a postsecondary institution, except as otherwise provided.

33-5109. CREDITS. (1) a pupil may enroll in a course under the provisions of this chapter for secondary credit, for postsecondary credit or for dual credit. At the time a pupil enrolls in a course, the pupil shall designate the type of credit desired. A pupil taking several courses may designate some for secondary credit, some for postsecondary credit and some for dual credit.
(2) A school district shall grant academic credit to a pupil enrolled in a course for secondary credit if the pupil successfully completes the course. Four (4) semester college credits equal at least one (1) full year (two (2) semester credits) of high school credit in that subject. Fewer college credits may be prorated.

33-5110. FINANCIAL ARRANGEMENTS. (1) For a pupil enrolled in a course under the provisions of this chapter, the school district may make payments or partial payments according to the provisions of this section for courses that were taken for secondary credit. (2) The school district superintendent shall not make payments to a postsecondary institution for a course taken for postsecondary credit only. The district superintendent shall not make payments to a postsecondary institution for a course from which a student officially withdraws during the first fourteen (14) days of the semester or for courses for audit.

Appendix 8B
IDAHO CONSTITUTION: ARTICLE IX

Article IX: Education and School Lands

SECTION 5. SECTARIAN APPROPRIATIONS PROHIBITED. Neither the legislature nor any county, city, town, township, school district, or other public corporation, shall ever make any appropriation, or pay from any public fund or moneys whatever, anything in aid of any church or sectarian or religious society, or for any sectarian or religious purpose, or to help support or sustain any school, academy, seminary, college, university or other literary or scientific institution, controlled by any church, sectarian or religious denomination whatsoever; nor shall any grant or donation of land, money or other personal property ever be made by the state, or any such public corporation, to any church or for any sectarian or religious purpose; provided, however, that a health facilities authority, as specifically authorized and empowered by law, may finance or refinance any private, not for profit, health facilities owned or operated by any church or sectarian religious society, through loans, leases, or other transactions.

Appendix 9

Appendix Contents

There is currently no appendix for Chapter 9.
An appendix will be developed in the future.

Note: Appendices in the *Special Education Manual* contain a variety of technical assistance information, including sample letters and forms, suggestions for dealing with special education issues, and copies of various laws. The appendices should be viewed as additional resources to Chapters 1-10 in the *Special Education Manual*. The district is ***not required*** to adopt as policy or procedure any of the appendices in this manual to receive IDEA funding.

Appendix 10

Appendix Contents

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Note: This appendix contains sample forms. Districts are not required to adopt these specific forms.

Student's Name: ______________________________ Date of Birth: ______________

The following persons have had access to educational record information on the above-named student in addition to authorized district personnel and parents. Access to records is denied to any out-of-school agency or person unless a release of information is included in the permanent record or the access meets one of the exceptions listed in the Family Educational Rights and Privacy Act.

NAME	AFFILIATION	DATE OF ACCESS	PURPOSE
Name (print): Signature:	Position: Agency:		
Name (print): Signature:	Position: Agency:		
Name (print): Signature:	Position: Agency:		
Name (print): Signature:	Position: Agency:		
Name (print): Signature:	Position: Agency:		
Name (print): Signature:	Position: Agency:		
Name (print): Signature:	Position: Agency:		
Name (print): Signature:	Position: Agency:		
Name (print): Signature:	Position: Agency:		
Name (print): Signature:	Position: Agency:		

Student's Name:______________________ Date of Birth:_________
Program:___________________________ School:______________

DATE	TIME	CONTENT (include participants, purpose of contact, what transpired, and outcome)	SIGNATURE OR INITIALS

Student's Name: ______________________
ID: ______________ **Birth Date:** ______________
Date of Notice: ______________ Grade: ______________

The purpose of this notice is to inform you of the following:

Actions Proposed
☐ The student is due for a reevaluation to determine continued eligibility and it has been determined that further assessment isn't necessary.
☐ The school district proposes to initiate/change identification.
☐ The school district proposes to initiate/change educational placement.
☐ The school district proposes to initiate/change educational placement due to disciplinary action.

Actions Refused
☐ The school district refuses to initiate/change identification.
☐ The school district refuses to initiate/change evaluation/reevaluation.
☐ The school district refuses to initiate/change placement.
☐ The school district refuses to change the Individualized Education Program (IEP).
☐ Other ____.

Explanation of Why Actions Were Proposed or Refused
☐ The student has met IEP or district graduation requirements.
☐ The student has completed the semester in which he or she turned 21 years old and is no longer entitled to special education services.
☐ The current data on school performance along with previous assessments are adequate.
☐ The student's disability adversely affects his or her educational performance, preventing satisfactory achievement.
☐ Special education services are required in order for the student to benefit from an educational program.
☐ The student's disability does not adversely affect his or her educational performance.
☐ Behavior and academic interventions can be implemented within the current placement.
☐ Other ____.

The following options were considered but rejected because:

The following evaluation procedures, tests, records and reports were used as a basis for the decision:

The following information and other factors are relevant to the decision:

You have protection under the procedural safeguards of the Individuals with Disabilities Education Act (IDEA). If you need an explanation or a copy of the Special Education Rights Statement, please contact:

______________________________ at ______________________________________.

After contacting the school district, if further assistance is needed, you may contact any of the agencies below:

Idaho State Department of Education
(208) 322-6910
TDD for Hearing Impaired Callers 1-800-377-3529

Idaho Parents Unlimited, Inc.
1-800-242-4785
V/TDD (208) 342-5884

Comprehensive Advocacy
V/TDD 1-800-632-5125

Evaluation/Reevaluation

☐ Initial Referral
☐ Reevaluation Data Review

Student's Name: ______________________________
ID: ____________ Birth Date: ______________________
Referral Date: ____________ Date of Meeting: ______ Grade: ______
School: ______________________________________
Person Referring: ______________________________
Title: ____

A. Review of Referral/(Initial referral only)

Briefly describe the reason for referral:

Attempted interventions and observations:

B. Does the learner have limited proficiency in English? ☐ Yes ☐ No

If yes, what is the language?

C. Review of Student's Performance

Review each of the following areas and determine if there is a need to assess.	Do we need to assess?	If yes, describe assessment:
1. Intellectual/Cognitive Functioning	☐ Yes ☐ No	
2. Academic Performance	☐ Yes ☐ No	
3. Communication (Speech/Language)	☐ Yes ☐ No	
4. Fine and Gross Motor Development	☐ Yes ☐ No	
5. Hearing/Vision	☐ Yes ☐ No	
6. Developmental/Medical History	☐ Yes ☐ No	
7. Adaptive Behavior	☐ Yes ☐ No	
8. Emotional/Social/Behavior Development	☐ Yes ☐ No	
9. Vocational/Occupational/Transition	☐ Yes ☐ No	
10. Assistive Technology	☐ Yes ☐ No	

D. Disposition of Referral: ______________________________

☐ Parent/adult student input has been requested.
☐ The Special Education Rights Statement has been sent to the parent and adult student.
☐ Medicaid has been discussed with the parent. Name of physician ____________________
☐ Consent for release of information has been obtained to exchange relevant educational information.

E. Persons Who Reviewed the Referral	**Title**

Student's Name: ______________________________
ID: ____________________ Birth Date: __________
Date: ____________________________________

Dear:

The school is proposing to conduct____ an initial evaluation, ____ a reevaluation of ________________________.

The purpose of this letter is to let you know that the evaluation/reevaluation will take place soon. As a member of the evaluation team, you have the right to participate in the process.

[ ] The evaluation team will be reviewing existing data and developing an evaluation plan without a meeting. You are a member of this team. You may provide input for the review by phone, letter, e-mail, or visiting with school personnel.

You have the right to request a meeting of the evaluation team to discuss the evaluation plan and to provide your input in person. If you would like a meeting, please contact me at ____________________________:

[ ] The evaluation team will be reviewing existing data and developing an evaluation plan at a meeting. You are a member of this team and we request your attendance at this meeting.

The meeting will be held on________________________ at___________ at______________________.
(Date) (Time) (Location)

If this meeting time is not convenient for you, please contact me at _________________________ to reschedule or provide your input to the school by phone, letter, e-mail, or visiting with school personnel.

A copy of the *Special Education Rights Statement* is enclosed.

If you have any questions, please call me at ____________________________.

Sincerely,

Confidential Information

Parent (s), this form allows information about your child to be exchanged. Please sign and return it to school.
(Address below)

Student's Name: ____________________
ID: ____________________ Birth Date: ____________________
Parent Name: ____________________
Parent Address: ____________________

I authorize: ____________________
Name, Title

____
Organization

____
Address

____
City State Zip code

______ to release information to: (Check either or both boxes, as needed)
______ to obtain information from:

____
Name, Title

____
School/District

____
Address

____
City State Zip code

School records may be examined by the parent(s) or adult student. The information to be released:

[ ] Official School Record (name, address, birth date, sex, attendance)
[ ] Health Record
[ ] Special Education Records
[ ] Chemical Abuse/Dependency Report
[ ] Psychiatric Report
[ ] Transcripts
[ ] Other:
[ ] Psychological Records
[ ] Teacher, Counselor, Staff Observations
[ ] Medical Report
[ ] Social Work Report
[ ] Counseling Records

The purpose for the request:

This authorization takes effect the day that you sign it, and:

☐expires after the requested information is received, or
☐continues until ____________________.

You may revoke this authorization at any time.

____________________ Date: ____________________
Parent Signature

Student's Name: ______________________________________
ID: ______________________ Birth Date: ________________
Date of Notice: ______________ Grade: __________________
School: ____

Dear:

We are requesting your permission to assess ______________________________________ current educational functioning in order to determine possible eligibility for special education services. Your written consent is required before an initial assessment can begin. If this is a request for consent for reassessment and the district does not hear from you after reasonable efforts to obtain consent, the district will proceed with the reassessment.

Reasons we would like to conduct this assessment:

Information used to determine the areas to be assessed:

The following options were considered and rejected for these reasons:

Other factors considered, including those identified as special considerations (behavior, limited English proficiency, blind or visually impaired, deaf or hard of hearing, or assistive technology):

If you agree with the decision to conduct an assessment, please sign and return the Parent Evaluation Response Form to:

Assessments are provided at no cost to you. Assessment procedures may include a review of school records, diagnostic teaching, observation of your child's activities, personal interviews, and consultation with you or others you recommend, along with individual testing as outlined. (See plan on reverse.)

You have protection under the procedural safeguards of the Individuals with Disabilities Education Act (IDEA). If you need an explanation or a copy of the Special Education Rights Statement, please contact me.

If you have any questions, please contact me at ________________________.

Sincerely,

(Note: The signature above verifies that parents who require notice and an explanation of their rights in their language have been accommodated to ensure their understanding.)

Student's Name: ______________________________

Area To Be Assessed	Position Responsible	Description of Assessment Procedures
☐ Intellectual/Cognitive Functioning		Assesses your child's ability to learn. Administered by a professional in a one-to-one setting.
☐ Academic Performance		Measures your child's achievements in such areas as listening comprehension, oral and reading comprehension, math calculation and reasoning, and written language.
☐ Communication (Speech/Language)		**Speech** Assesses your child's articulation (speech sounds), voice, fluency, and motor skills for speech. **Language** Assesses your child's receptive and expressive language skills, including phonology, morphology, syntax, semantics, and pragmatics.
☐ Fine and Gross Motor Development		**Physical Therapy Assessment** Assesses your child's gross motor skills and abilities for general or specific activities. **Occupational Therapy Assessment** Assesses your child's daily living, educational, work, play or leisure motor skills and abilities for general or specific activities. **Fine and Gross Motor Development** Assesses your child's motor skills and abilities.
☐ Hearing		Screens your child for hearing acuity. Includes pure tone testing and impedance testing of middle ear functioning.
☐ Vision		Screens your child for visual acuity.
☐ Developmental/Medical History		Collects information about your child's developmental progress or medical history.
☐ Adaptive Behavior		Assesses your child's behavior at home, school, and community in the areas of self-help, independence and activities of daily living.
☐ Emotional/Social/ Behavioral		Collects information about your child's social and emotional development. May include rating scales, personality inventories, behavioral observations, projective tests, and personal interviews.
☐ Vocational/Occupational/ Transition		Assesses interests and capabilities for different types of work.
☐ Assistive Technology		Assesses the need for a piece of equipment or a product that is used to increase, maintain or improve the functional abilities of your child.

Student's Name: ____________________
ID: ____________________ Birth Date ____________
Date of Notice: ____________ Grade: ____________

Parent/Adult Student Evaluation Response

The district is asking for your consent to conduct:

- ☐ an initial assessment of the student. The district will not proceed with an initial assessment without your written consent.
- ☐ a reassessment of the student. If you do not give or deny consent after the district makes reasonable efforts to obtain consent, the district will proceed with the reassessment.

After reviewing your rights, please sign on the appropriate line below and return this form to your child's school as soon as possible. For assistance in understanding your rights feel free to call me or refer to the Special Education Rights Statement for sources of information on your rights.

I understand my rights and GIVE CONSENT to conduct this evaluation.

Signature | Date

I understand my rights and DENY CONSENT to conduct this evaluation

Signature | Date

Date received by school district

	All Disability Categories **(page 1 of 2)**

STUDENT INFORMATION

Student's Name					ID Number
Sex	Grade	Birth Date	Native Language	Current District	Resident District
School of Enrollment					School Phone

PARENT/GUARDIAN INFORMATION

Contact 1 Name(s)	Home Telephone
Contact 1 Address	Daytime Telephone
	Native Language
Contact 2 Name(s)	Home Telephone
Contact 2 Address	Daytime Telephone
	Native Language

Eligibility Determination Date: / / ☐ Initial Assessment ☐ Reassessment

Title	Names of All Evaluation Team Members	Agreement
		☐ Yes ☐ No
		☐ Yes ☐ No
		☐ Yes ☐ No
		☐ Yes ☐ No
		☐ Yes ☐ No
		☐ Yes ☐ No
		☐ Yes ☐ No
		☐ Yes ☐ No
		☐ Yes ☐ No
		☐ Yes ☐ No
		☐ Yes ☐ No

	(page 2 of 2)

Student's Name: ______________________________

SUMMARY OF FINDINGS/ADVERSE EFFECTS ON EDUCATIONAL PERFORMANCE

Area assessed: Procedure or test used:
Evaluator: Title: Date:

Results:

Adverse effect:

Need for specially designed instruction:

Area assessed: Procedure or test used:
Evaluator: Title: Date:

Results:

Adverse effect:

Need for specially designed instruction:

Area assessed: Procedure or test used:
Evaluator: Title: Date:

Results:

Adverse effect:

Need for specially designed instruction:

Justification for professional judgement if used:

Use additional pages as necessary. Attach all relevant reports, provide a description of the extent to which any assessments were conducted under non-standard conditions or any other factors relevant to this evaluation.

A student can not be determined eligible for special education if the determinant is lack of instruction in reading or math or limited English proficiency. Indicate if any of these factors are relevant:

In consideration of the reported information, the evaluation team finds the student ___ is, ___ is not eligible under the category: ____.

Additional Requirement	**Eligibility Report** **Learning Disability**

Student's Name: ____

ID: __________________________ Birth Date: __________________

Severe discrepancy

Is there a severe discrepancy between achievement and ability that is not correctable without special education and related services? ____Yes ____No

Intellectual Ability Regressed Full Scale Score	Broad Area	**Academic Achievement Test** Score	Discrepancy
______________	______________________________	______________	__________
	______________________________	______________	__________
	______________________________	______________	__________

Is this discrepancy primarily the result of a visual, hearing or motor impairment; mental retardation; emotional disturbance; or environmental, cultural or economic disadvantage? ____ Yes ____No

What effects, if any, are from environmental, cultural or economic disadvantages?

Relevant behavior noted during classroom observation and the relationship of that behavior to the students academic functioning:

Educationally relevant medical findings, if any:

Any evaluation team member who disagrees with this team report must attach a separate statement of his or her conclusions.

Student's Name: ______________________________
ID: ____________________ Birth Date: ______________
Date of Notice: ____________ Grade: ______________
School: ______________________________________

Dear:

We would like to meet with you regarding ______________________________ educational program.

You are encouraged to attend and bring your child, if appropriate. As the parent/adult student, you will serve as an equal participant in making decisions. If you wish to review any pertinent education records prior to the meeting, or need additional time to respond, please notify our office.

The meeting will be held on: ______________________________________

Location: ____

The purpose of this meeting is to:

- [ ] review all available information and determine what additional assessments are needed, if any
- [ ] review and discuss evaluation information and determine whether the student is eligible for special education and related services
- [ ] develop the Individualized Education Program (IEP) and determine the appropriate placement in the least restrictive environment (LRE)
- [ ] consider the need for transition services
- [ ] review the IEP, and revise, as appropriate
- [ ] determine the need for a reevaluation
- [ ] discuss the development of a functional behavioral assessment plan or behavioral intervention plan
- [ ] determine the relationship between the disability and the behavior subject to disciplinary action
- [ ] consider the need for extended school year services
- [ ] other____

The following people have been invited:

Name	Title	Name	Title

You may bring a friend or other person(s) with knowledge or specific expertise________________________.

If you require an accommodation in accordance with Americans with Disabilities Act (ADA), or you are unable to attend and want to reschedule the meeting, please contact me at ______________________________.

Sincerely,

Enclosure: Special Education Rights Statement

BEST COPY AVAILABLE

Projected Review Date: ____________________ Last Comprehensive Evaluation Date: _________	**Cover Sheet**

A.	**STUDENT INFORMATION**				
Student's Name					ID Number
Sex	Grade	Birth Date	Native Language	Race/Ethnicity	District
School of Enrollment				School Phone	

B. **PARENT/GUARDIAN INFORMATION**	
Contact 1 Name(s)	Home Telephone
Contact 1 Address	Daytime Telephone
	Native Language
Contact 2 Name(s)	Home Telephone
Contact 2 Address	Daytime Telephone
	Native Language

C. **IEP INFORMATION**		
Case Manager Name	Telephone Number	IEP Type: __ Initial __ Review
Eligibility Category:		

D. **IEP TEAM MEETING**

Title	Names of All Team Members	Attendance
		☐ Yes ☐ No
		☐ Yes ☐ No
		☐ Yes ☐ No
		☐ Yes ☐ No
		☐ Yes ☐ No
		☐ Yes ☐ No
		☐ Yes ☐ No
		☐ Yes ☐ No
		☐ Yes ☐ No
		☐ Yes ☐ No
		☐ Yes ☐ No
		☐ Yes ☐ No

Student's Name: **ID:**

GOALS AND OBJECTIVES/BENCHMARKS

Present Level of Performance:

General Education Performance Standards:

Annual Goal:

Evaluation Procedure:

Assistive Technology (if needed):

How & When Student Progress is Reported:

If the student is not progressing according to target dates, parents will be informed.

Objective/Benchmarks:

1.

Expected Progress:
Target Date: ___/___/___

2.

Expected Progress:
Target Date: ___/___/___

3.

Expected Progress:
Target Date: ___/___/___

4.

Expected Progress:
Target Date: ___/___/___

Progress:

1st Qtr	2nd Qtr	3 Qtr	4 Qtr

Progress Legend:
1. Completed
2. In Progress
3. Not Started
4. Other: ________

Progress Projection:
- a. Progress adequate to meet target date.
- b. Progress inadequate to meet target date.

Student's Name: ID:

Service	Position Responsible	Location	Freq	M Type Service	Total hrs & min/wk	Start Date	Anticipated Duration

Legend

Location
01 Classroom
02 Sped Classroom
03 Home
04 Hospital
05 Community
06 Therapy Room

Frequency
01 Daily
02 Weekly
03 Bi-Weekly
04 Monthly
05 ____ Times ____

M Type Service
IN - Individual
SG - Group Size 2
LG - Group Size 3 or More

OTHER CONSIDERATIONS:

Transportation is considered a related service. The student requires ___ **Regular** ___ **Special** ___ **No** transportation. Describe, if necessary:

Are extended school year (ESY) services required for this student? ___ Yes ___ No ___ To be determined on _____________.
What are the skills this student will lose as a result of an interrupted educational program and will be unable to recoup so as to make reasonable progress toward achieving the goals and objectives in the IEP?

What skills are emerging that the IEP team believes that with ESY the student would make reasonable gains?

What acquisition of a critical life skill that aids the student's ability to function independently would be threatened by an interruption in services?

In what way are the above skills critical to the overall progress of the student?

Specify which goals and objective/benchmarks should be part of the IEP for ESY.

Does the learner have limited proficiency in English? ☐ Yes ☐ No
If yes, what native language?
Explain what considerations are necessary:

If hearing impaired/deaf, is hearing aid monitoring required? ☐ Yes ☐ No
If no, explain what considerations are necessary:

If visually impaired/blind, is Braille required? ☐ Yes ☐ No
If no, explain what considerations are necessary:

Student's Name: ID:

ACCOMMODATIONS/MODIFICATIONS/SUPPORTS IN GENERAL AND SPECIAL EDUCATION

BEHAVIORAL INTERVENTION PLANNING

Does Behavior impede the student's learning? ____ Yes ____ No
Is a functional behavioral assessment required? ____ Yes ____ No
Has a functional behavioral assessment been conducted: ____ Yes ____ No Date:________
Is a behavioral intervention plan attached or incorporated into the student's IEP? ____ Yes ____ No
List additional behavioral strategies needed:

TEST PARTICIPATION AND OTHER INFORMATION

[ ] The student will participate in the following statewide and district wide assessments without accommodations.

___ ITBS _____ DWA
___ TAP _____ DMA
___ IRI _____ Other __________________

[ ] The student will participate in statewide and district wide assessments with the following state approved accommodations that are regularly used by the student in the classroom:

[ ] The student meets the following criteria and will participate in the alternate assessment.

Alternate Assessment Eligibility Criteria

1. The student's demonstrated cognitive ability and adaptive behavior prevent completion of the general academic curriculum even with program modifications; and
2. The student's course of study is primarily functional and living skills oriented; and
3. The student is unable to acquire, maintain, or generalize skills and demonstrate performance of those skills without intensive frequent individualized instruction.

	School Age Students

Student's Name: ID:

PLACEMENT DETERMINATION: Least Restrictive Environment (LRE)

Explanation of the extent, if any, to which the students will not participate with non-disabled students:

[ ] The student will participate in the general education classroom, general education curriculum, nonacademic, or extracurricular activities with non-disabled peers (see explanation below).

[ ] The student will not participate in the following general education classroom, general education curriculum, nonacademic, or extracurricular activities with non-disabled peers (see explanation below).

DECEMBER 1 FEDERAL REPORT SETTINGS

__ Regular Class (pulled out less than 1 hour 15 minutes per 6 hour school day)
__ Resource (pulled out more than 1 hour 15 minutes but less than 3 hour 35 minutes/6 hour day)
__ Self-contained or Extended Resource (more than 3 hours 35 minutes of a 6 hour school day)
__ District Separate Special Education School (more than 3 hours of a 6 hour school day)
__ Private Special Education School (at public expense more than 3 hours of 6 hour school day)
__ Public Residential Facility (more than 3 hours of a 6 hour school day)
__ Private Residential Facility (at public expense more than 3 hours of a 6 hour school day)
__ Hospital or Home Setting
__ Voluntarily Enrolled in Private School by their Parents

WRITTEN NOTICE

The student will receive the services and placement outlined on this IEP because the student is eligible for special education and the IEP team has determined that this IEP will meet his or her needs.

The following options were considered but rejected because:

The following evaluation procedures, tests, records or reports were used as a basis for the IEP:

The following information and other factors were used to develop this IEP:

You have protection under the procedural safeguards of the Individuals with Disabilities Education Act (IDEA). If you need an explanation or a copy of the Special Education Rights Statement please contact ________________________ at ____________.

After contacting the school district, if further assistance is needed, you may contact any of the agencies below:

Idaho State Department of Education	Idaho Parents Unlimited, Inc.	Comprehensive Advocacy
(208) 322-6910	1-800-242-4785	1-800-632-5125
TDD for Hearing Impaired Callers 1-800-377-3529	V/TDD (208) 342-5884	

CONSENT FOR INITIAL PLACEMENT

☐ I consent to placing, ____________________________________, in special education. I understand that I can revoke this consent before my services begin.

☐ I deny consent to placing, ____________________________________, in special education.

____________________________________ ______________________
Parent/Adult Student Signature Date

A-255

	Preschool Students

Student's Name: ID:

PLACEMENT DETERMINATION: Least Restrictive Environment (LRE)

Explanation of the extent, if any, to which the students will not participate with non-disabled students:

[ ] The student will participate in the general education classroom, general education curriculum, nonacademic, or extracurricular activities with non-disabled peers.

[ ] The student will not participate in the following general education classroom, general education curriculum, nonacademic, or extracurricular activities with non-disabled peers (provide explanation for each item selected):

DECEMBER 1 FEDERAL REPORT SETTINGS

___ Reverse Mainstream Settings (program includes 50% or more children without disabilities)
___ Early Childhood Setting (program designed primarily for non-disabled children)
___ Part-time Early Childhood/Part-time Early Childhood Special Education (Reverse, ESC or home; and ECSE SS, Residential or Itinerant)
___ Early Childhood Special Education (primarily for children with disabilities in a community/school campus)
___ Separate School (specifically for children with disabilities in separate facility)
___ Residential Facility (program designed as inpatient services in a residential facility)
___ Home
___ Itinerant Services Outside the Home (school, community-based setting, or hospital for not more than 3 hrs/wk or less)

WRITTEN NOTICE

The student will receive the services and placement outlined on this IEP because the students is eligible for special education and the IEP team has determined that this IEP will meet his or her needs.

The following options were considered but rejected because:

The following evaluation on procedures, tests, records or reports were used as a basis for the IEP:

The following information and other factors were used to develop this IEP:

You have protection under the procedural safeguards of the Individuals with Disabilities Education Act (IDEA). If you need an explanation or a copy of the Special Education Rights Statement, please contact ______________________ at ______.

After contacting the school district, if further assistance is needed, you may contact any of the agencies below:

Idaho State Department of Education	Idaho Parents Unlimited, Inc.	Comprehensive Advocacy
(208) 322-6910	1-800-242-4785	1-800-632-5125
TDD for Hearing Impaired Callers 1-800-377-3529	V/TDD (208) 342-5884	

CONSENT FOR INITIAL PLACEMENT

☐ I consent to placing, ______________________________, in special education. I understand that I can revoke this consent before services begin.

☐ If applicable, I have been informed of the differences between the IEP and IFSP. I give consent to use IFSP.

☐ I deny consent to placing, __________________________, in special education.

Parent/Adult Student Signature ________________________ Date ____________

	(page 1 of 2)

Student's Name: ID:

Student's Post School Goals:

At age 14: Statement of needed transition services that focus on the student's course of study.

☐ A Parent Approved Student Learning Plan is attached.

At age 16: Statement of needed transition services

☐ IEP goals/objectives/benchmarks reflect specific targeted activities.

Graduation Requirements

☐ The student will meet all of the regular high school diploma requirements.

☐ The student will meet the following graduation criteria established by the IEP team:

Anticipated graduation date:________________.

Not later than the 17th birthday: Transfer of rights.

☐ The student and parents have been informed that rights **will** transfer to the student at age eighteen (18).

☐ The student and parents have been informed that special education rights **will not** transfer to the student at age eighteen (18) because:
  - ☐ the IEP team has determined the student is not able to provide informed consent
  - ☐ a legal guardian has been appointed by the courts

	(page 2 of 2)

Student's Name: ID:

Activities for Future Outcomes:

Transition Service	Responsible Party	Begin Date
1. Post Secondary Education/Training		
2. Employment/Career		
3. Community Participation		
4. Independent Living		
5. Adult Services		
6. Other		

Student's Name: **ID:**

Relates to student post-school goal #___.

Present Level of Performance

General Education Performance Standards:

Annual Goal:

Evaluation Procedure:

Assistive Technology (if needed):

How & When Student Progress is Reported:

If the student is not progressing according to target dates, parents will be informed.

Objective/Benchmarks:

1.

Expected Progress:
Target Date: __/__/__

2.

Expected Progress:
Target Date: __/__/__

3.

Expected Progress:
Target Date: __/__/__

4.

Expected Progress:
Target Date: __/__/__

Progress:

1st Qtr	2nd Qtr	3 Qtr	4 Qtr

Progress Legend:
1. Completed
2. In Progress
3. Not Started
4. Other: ____________

Progress Projection:
a. Progress adequate to meet target date.
b. Progress inadequate to meet target date.

IEP AMENDMENT (Attach to IEP)

STUDENT INFORMATION

Student's Name	ID Number	Sex	Birth Date
Street Address City, State, Zip	Student's Native Language	Grade	District
School of Enrollment	School Phone	Resident District/County	

IEP INFORMATION

Date of last annual IEP meeting:	Note: The completion of this document does not replace or extend the required annual IEP Meeting.

IEP Addendum Date:

IEP PLANNING MEETING

Title	Names of All Team Members

WRITTEN NOTICE

Description of change to current IEP (include revised goal sheets if needed):

The IEP is being amended for the following reasons:

The following options were considered but rejected because:

The following evaluation procedures, tests, records, or reports were used as a basis for this amendment:

The following information and other factors were used to develop this IEP amendment:

You have protection under the procedural safeguards of the Individuals with Disabilities Education Act (IDEA). If you need an explanation or a copy of the Special Education Rights Statement, please contact ______________________ at ________________.

After contacting the school district, if further assistance is needed, you may contact any of the agencies below:

Idaho State Department of Education
(208) 322-6910
TDD for Hearing Impaired Callers 1-800-377-3529

Idaho Parents Unlimited, Inc.
1-800-242-4785
V/TDD (208) 342-5884

Comprehensive Advocacy
1-800-632-5125

	Projected Review Date:________________	**(For Private/Home School Students)**

A.	**STUDENT INFORMATION**				
Student's Name					ID Number
Sex	Grade	Birth Date	Native Language	Race/Ethnicity	District
School of Enrollment				School Phone	
B.	**PARENT/GUARDIAN INFORMATION**				
Contact 1 Name(s)					Home Telephone
Contact 1 Address					Daytime Telephone
					Native Language
Contact 2 Name(s)					Home Telephone
Contact 2 Address					Daytime Telephone
					Native Language

C.	**SP INFORMATION**	
Case Manager Name	Telephone Number	SP Type: __ Initial __ Review
Eligibility Category:		

D.	**SP TEAM MEETING**	
Title	Names of All Team Members	Attendance
		☐ Yes ☐ No
		☐ Yes ☐ No
		☐ Yes ☐ No
		☐ Yes ☐ No
		☐ Yes ☐ No
		☐ Yes ☐ No
		☐ Yes ☐ No
		☐ Yes ☐ No
		☐ Yes ☐ No
		☐ Yes ☐ No
		☐ Yes ☐ No
		☐ Yes ☐ No
		☐ Yes ☐ No

Student's Name: ID:

SPECIAL EDUCATION AND RELATED SERVICES

Service	Position Responsible	Location	Frequency	Total hrs & min/wk	Start Date	Anticipated Duration

Legend **Location**	**Frequency**
01 Classroom	01 Daily
02 Sped Classroom	02 Weekly
03 Home	03 Bi-Weekly
05 Community	04 Monthly
06 Therapy Room	05 ____ Times ____

OTHER CONSIDERATIONS:

The student requires ___ **Regular** ___ **Special** ___ **No** transportation.

Describe, if necessary:

Does the learner have limited proficiency in English? ☐ Yes ☐ No

If yes, what native language?

Explain what considerations are necessary:

If hearing impaired/deaf, is hearing aid monitoring required? ☐ Yes ☐ No

If no, explain what considerations are necessary:

If visually impaired/blind, is Braille required? ☐ Yes ☐ No

If no, explain what considerations are necessary:

Student's Name: ID:

ACCOMMODATIONS/MODIFICATIONS/SUPPORTS PROVIDED BY THE DISTRICT

BEHAVIORAL INTERVENTION PLANNING

Does behavior impede the student's learning?	____ Yes ____ No
Is a functional behavioral assessment required?	____ Yes ____ No
Has a functional behavioral assessment been conducted?	____ Yes ____ No Date:______
Is a behavioral intervention plan attached or incorporated into the student's SP?	____ Yes ____ No

List additional behavioral strategies needed:

WRITTEN NOTICE

The student will receive the services and placement outlined on this SP because the student is eligible for special education and the SP team has determined that this SP will meet his or her needs.

The following options were considered but rejected because:

The following evaluation procedures, tests, records, or reports were used as a basis for this service plan:

The following information and other factors were used to develop this SP:

You have protection under the procedural safeguards of the Individuals with Disabilities Education Act (IDEA).

After contacting the school district, if further assistance is needed, you may contact any of the agencies below:

Idaho State Department of Education
(208) 322-6910
TDD for Hearing Impaired Callers 1-800-377-3529

Idaho Parents Unlimited, Inc.
1-800-242-4785
V/TDD (208) 342-5884

Comprehensive Advocacy
1-800-632-5125

Service Provider	Title
Students Name (last, first, middle initial)	Date of Birth
Medicaid Number	Attending School

Procedure Codes (PC) I= Individual G/2- Group Size 2 G/3= Group Size 3 or More

SERVICE DETAIL REPORT

Please record comments for each date that service was provided.

Date	Comments	Response	PC	Time	Duration	Initials
			☐ I ☐G/2 ☐G/3+			
			☐ I ☐G/2 ☐G/3+			
			☐ I ☐G/2 ☐G/3+			
			☐ I ☐G/2 ☐G/3+			
			☐ I ☐G/2 ☐G/3+			
			☐ I ☐G/2 ☐G/3+			
			☐ I ☐G/2 ☐G/3+			
			☐ I ☐G/2 ☐G/3+			
			☐ I ☐G/2 ☐G/3+			
			☐ I ☐G/2 ☐G/3+			
			☐ I ☐G/2 ☐G/3+			
			☐ I ☐G/2 ☐G/3+			

PROGRESS COMMENTS:

Service Provider	Title
Students Name (last, first, middle initial)	Date of Birth
Medicaid Number	Attending School

PROCEDURE CODES (PC) I - Individual G/2 - Group Size 2 G/3 - Group Size 3 or More

SERVICE DETAIL REPORT

Please record comments for each date that service was provided.

Date	Comments		PC	Time	Duration	Initials
	☐ Gait Training ☐ Balance ☐ Trunk Strengthening ☐ ROM ☐ Motor Planning ☐ Transfers		☐ I ☐ G/2 ☐ G/3 +			
	☐ Gait Training ☐ Balance ☐ Trunk Strengthening ☐ ROM ☐ Motor Planning ☐ Transfers		☐ I ☐ G/2 ☐ G/3 +			
	☐ Gait Training ☐ Balance ☐ Trunk Strengthening ☐ ROM ☐ Motor Planning ☐ Transfers		☐ I ☐ G/2 ☐ G/3 +			
	☐ Gait Training ☐ Balance ☐ Trunk Strengthening ☐ ROM ☐ Motor Planning ☐ Transfers		☐ I ☐ G/2 ☐ G/3 +			
	☐ Gait Training ☐ Balance ☐ Trunk Strengthening ☐ ROM ☐ Motor Planning ☐ Transfers		☐ I ☐ G/2 ☐ G/3 +			
	PROGRESS COMMENTS:					
	☐ Gait Training ☐ Balance ☐ Trunk Strengthening ☐ ROM ☐ Motor Planning ☐ Transfers		☐ I ☐ G/2 ☐ G/3 +			
	☐ Gait Training ☐ Balance ☐ Trunk Strengthening ☐ ROM ☐ Motor Planning ☐ Transfers		☐ I ☐ G/2 ☐ G/3 +			
	☐ Gait Training ☐ Balance ☐ Trunk Strengthening ☐ ROM ☐ Motor Planning ☐ Transfers		☐ I ☐ G/2 ☐ G/3 +			
	☐ Gait Training ☐ Balance ☐ Trunk Strengthening ☐ ROM ☐ Motor Planning ☐ Transfers		☐ I ☐ G/2 ☐ G/3 +			
	☐ Gait Training ☐ Balance ☐ Trunk Strengthening ☐ ROM ☐ Motor Planning ☐ Transfers		☐ I ☐ G/2 ☐ G/3 +			
	PROGRESS COMMENTS:					